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APPROPRIATIONS FOR CERTAIN MARITIME PROGRAMS IN DOT AND FMC

THURSDAY, JUNE 1, 1989

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON MERCHANT MARINE,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room SR-253, Russell Senate Office Building, Hon. John B. Breaux (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: John Graykowski, staff counsel; and Bob Eisenbud, minority professional staff member.

OPENING STATEMENT BY SENATOR BREAUX

Senator BREAUX. The subcommittee will please come to order.

This morning our subcommittee will review the programs of the Federal Maritime Commission and the Maritime Administration. These are the two Federal agencies that are most directly responsible for the regulation and the promotion of the United States maritime industry.

There are many problems facing the maritime industry at this time. The problems range from a virtual depression in the domestic civilian shipbuilding industry to an ever-shrinking share in the world maritime transportation markets. If these problems are left unaddressed and unattended, there will be serious consequences to our national security.

I plan additional hearings in the near future to examine the maritime industry and its role in the national security and the national defense. I feel that, while much has been said, there has been very little tangible activity to ensure that we have an adequate maritime base to respond to national emergencies. At that time we will hear from the military, the shipbuilders, and the operators and from maritime labor.

I mention this now because the focal point for maritime policy in this government is the Maritime Administration, MarAd. It is responsible for the ready reserve fleet, the maritime academies, the operating differential subsidies, three programs which are designed to assure an adequate maritime base both in terms of ships and in terms of manpower.

We will today examine these programs in the context of the administration's budget request and the bill H.R. 1846 which has been approved by the House of Representatives. We will hopefully determine the adequacy of the proposed authorizations, as well as

receive suggestions for modifications to the current program operations.

With respect to the Federal Maritime Commission, I do not perceive there to be much controversy or difference between the administration, the House-passed legislation and outside parties. I am hopeful that the language that has been approved relating to the automated tariff filing information system will be acceptable to all interested parties and can be incorporated into the Senate bill.

I look forward to our testimony today, and would recognize our ranking member, the Senator from Mississippi, Senator Lott, for any comments.

OPENING STATEMENT BY SENATOR LOTT

Senator LOTT. Mr. Chairman, thank you very much. I am pleased that we are having this early hearing today. And certainly I'm looking forward to working with you as we draft the necessary authorization legislation.

I want to commend the panel for being here this morning. We do have some very important issues that are before the Federal Maritime Commission and administration, and we're looking forward to working with you on those problems and hopefully finding some solutions. I want to assure the panel and others interested in this area that as a new member of the subcommittee, I'm going to be very aggressive in trying to get a little more focus on your needs and the things that we can do within the Federal maritime area.

So, thank you, and I'm looking forward to hearing your testimony.

Senator BREAU. I have opening statements from the Chairman, Senator Hollings, and Senator Packwood that I will insert in the record.

[The statements follow:]

OPENING STATEMENT BY THE CHAIRMAN

Good morning, Mr. Chairman. I would like to associate myself with your remarks concerning the current state of affairs in the U.S. maritime industry. This is indeed a serious problem which involves the shipbuilding industry, the ship operators and maritime labor. We have seen a steady erosion in this industry over the last decade, and there are no signs that it will abate in the near future.

The United States fleet, once the pre-eminent maritime power in the world, is now eleventh. Our industry, small as it is, faces incessant competition from foreign powers, and there is precious little profit margin to adjust rates to gain markets. We are now building civilian ships in this country, and the differential in cost and schedule between domestic and foreign yards keeps widening. In short, there is a severe problem out there and one that could prevent us from responding to a genuine national emergency.

The hearing today will focus upon the operations of the Maritime Administration and the Federal Maritime Commission. Both of these agencies have a great deal to do with the success or failure of the U.S. industry. We are spending a great deal of money to assist the U.S. maritime fleet, and one issue we can cover today is whether this money is being spent in the most appropriate fashion to support and promote the U.S. industry. In this regard, we will be taking a look at the Operating Differential Subsidy (ODS), at the operations of the maritime academies and proposed changes in those operations, and at the structure of the Ready Reserve Fleet.

I note, Mr. Chairman, your comments concerning future hearings into the sealift capability of the United States and want to state my support for those hearings. The time is now to take a comprehensive look at this aspect of our maritime industry.

With that, I look forward to our witnesses today, and know that the comments that we receive will assist us in developing the fiscal year 1990 MarAd and FMC authorizations.

OPENING STATEMENT BY SENATOR PACKWOOD

Mr. Chairman, I have recently been contacted by a constituent of mine, the Port of Portland, about a problem they are having with the Maritime Administration's bonding requirements. Currently, MarAd requires the posting of a bond for ship repair work. This practice not only limits the repair possibilities for small, less established ship repair yards, it also appears to increase costs to the federal government. Both the Coast Guard and the Navy have found that bonding requirements are not cost effective.

The Port of Portland estimates that bonding adds 5 to 15 percent to the cost of ship repair. In addition, they argue that the bonding capacity of a company does not necessarily reflect an accurate picture of its financial health; it is sometimes a reflection of the relationship of the surety company to the contractor, the health of the surety industry, and the health of the ship repair industry.

MarAd has five ships outported in Portland. The lack of bonding on the part of Portland Ship Repair yard contractors could mean towing or steaming the ships to another area where the work is more expensive, though bonded. At a time when we need to ensure that the government gets the most for each dollar, such a practice does not seem to make sense.

I am interested in pursuing this issue with MarAd, and have submitted several questions for the record. I look forward to hearing from MarAd, and working with them to find a responsible solution to this problem.

Senator BREAU. We welcome our first panel and Mr. James Carey, who is our Acting Chairman of the Federal Maritime Commission. Jim, we visited a number of times. We are delighted that you are here. I'm pleased to receive your testimony.

STATEMENT OF HON. JAMES J. CAREY, ACTING CHAIRMAN, FEDERAL MARITIME COMMISSION, ACCOMPANIED BY ROBERT D. BOURGOIN, GENERAL COUNSEL; AND EDWARD P. WALSH, MANAGING DIRECTOR

Mr. CAREY. Thank you, Mr. Chairman. Good morning.

I would like, with your permission, to submit my formal statement for the record.

Senator BREAU. Without objection, it will be made part of our record.

Mr. CAREY. And then I would briefly summarize in the interest of time.

Appearing with me today to assist in answering any questions that you and the committee might have are, on my right, Bob Bourgoin, our General Counsel, and on my left, Ed Walsh, our Managing Director.

Mr. Chairman, the commission is requesting an authorization of \$16,350,000 for fiscal year 1990. This is an increase of \$2,765,000 over our 1989 appropriation and will provide a total of 230 work-years of employment.

The major portion of this increase is for the implementation of our automated tariff filing and information system, known as ATFI, and also to permit the hiring of five additional investigators to enhance our enforcement efforts.

As you know, water carriers in our domestic and foreign commerce are required by law to file tariffs containing the rates and charges with the Commission. These tariffs are presently processed manually and are placed in some 5,000 loose-leaf binders available for public inspection at the Commission. Last year alone the Commission received over 715,000 tariff pages.

For some time, Members of the Congress, including yourself, Mr. Chairman, and the maritime industry have been suggesting, in

many cases quite strongly, that the Commission get on with automating its tariff filing system. We fully agree. For the past several years we have carefully, and I think prudently, examined the feasibility of such a system and have now begun to take the final necessary steps to implement it.

I am very pleased to report that we are now ready to begin with that actual implementation. A Request for Proposals was sent to over 200 potential bidders in January with a deadline of this past March 14 for submission of the bids. It is our hope to award a contract in July of this year.

The ATFI system will benefit almost everyone involved in the ocean transportation industry. Carriers will be able to file their tariffs and make changes to them in an efficient and expedited manner. Shippers, freight forwarders and other entities in the shipping industry will be able to retrieve on a very limited basis the same information they can presently obtain at our public tariff room, however much more efficiently. Third party vendors of enhanced or value-added information will continue to provide a vital role, with perhaps even more use of their services. And quite frankly, the Commission will have the ability to more efficiently process tariff data for our surveillance, enforcement and trade monitoring role assigned by the Congress.

I wish to emphasize that from day one the Commission has had no desire to compete with providers of enhanced or value-added information services. For this reason the ATFI feasibility study recommended that remote access be only rudimentary with essentially no analysis of the data. Our Request for Proposals continues this limitation.

Further, the RFP provides that the public user will be able to access only a certain number of items before automatic log-off by the computer.

The Commission, therefore, has no quarrel with the language that was added to the House authorization bill, H.R. 840, relating to ATFI. In fact, we believe it to be consistent with our Request for Proposals and our intent throughout this project.

The ATFI contract is to be in five phases. Phase I should be initiated this fiscal year. The fiscal year 1990 money that we are asking for is for the design, development and prototype phases, and those are expected to begin in fiscal year 1990, and then full implementation would begin in fiscal year 1991.

Turning from automated tariff filing, we would like to note the Commission's ongoing efforts to improve its ability to enforce the Shipping Act of 1984. Our enforcement program is targeting major malpractices on trade routes that we feel are most likely to be subject to malpractices. And we have significantly increased the level of training for our investigators and are also conducting enforcement activities across all divisions of the Commission.

These efforts are truly paying off. Last year we collected almost \$2½ million in fines and penalties, and during the last two fiscal years, we have collected over \$5½ million in civil penalties.

Our most recent enforcement efforts have resulted in significant settlements in the U.S.-Far East trade. For example, on February 10 of this year, the Commission entered into a \$2,550,000 settlement with a Hong Kong-based carrier serving in the U.S. trans-Pa-

cific and trans-Atlantic trade routes. This settlement, in fact, represents the largest monetary settlement with a single carrier since the passage of the 1984 Shipping Act.

In this regard, we will continue to focus our efforts in the trans-Pacific trades, given their size and importance. The six additional work years that we have requested for fiscal year 1990 should assist our enforcement program quite significantly.

During fiscal year 1988, the Commission was again faced with the task of identifying and then correcting unfavorable conditions in the U.S. foreign trades. We addressed and are presently addressing conditions in a number of U.S. trades. With the advent of our additional enforcement tools, pursuant to the Foreign Shipping Practices Act of 1988, I feel we are well-positioned to continue to counter adverse trade conditions. In this regard, the Commission has recently determined to initiate action against Taiwan under this new statute.

We are also in the final stages of fulfilling our mandate under section 18(a) of the 1984 Act. I believe that the report which we will submit to the Congress and to the Advisory Commission in September of this year will assist immeasurably in evaluating the impact of the 1984 Act and in determining an appropriate response.

Mr. Chairman, I believe that our budget request is a fair one. It will allow us to effectively meet our statutory responsibilities, and I would, therefore, urge your favorable consideration.

If there are any questions or anything further we can answer, I would be more than happy to do so.

[The statement follows:]

STATEMENT OF
THE HONORABLE JAMES J. CAREY
ACTING CHAIRMAN
FEDERAL MARITIME COMMISSION
BEFORE THE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
MERCHANT MARINE SUBCOMMITTEE
UNITED STATES SENATE

June 1, 1989

Mr. Chairman and members of the Subcommittee. It is a pleasure to appear before you today to discuss the Federal Maritime Commission's authorization for fiscal year 1990. With me today are Robert D. Bourgoïn, the Commission's General Counsel and Edward P. Walsh, our Managing Director. My testimony will focus in large part on the Commission's efforts to automate its tariff filing system, since this comprises a significant portion of our budget.

The Commission is seeking an authorization of \$16,350,000 for fiscal year 1990. This is an increase of \$2,765,000 above our fiscal year 1989 appropriation. This increase includes: (1) an additional \$1,915,000 for the design, development, and operation of an Automated Tariff Filing and Information System (ATFI); (2) \$135,000 for six additional workyears to enhance our enforcement efforts; (3) \$320,000 for promotions, within grade increases, merit pay, overtime, incentive awards, and annualization of the fiscal year 1989 pay increase; (4) \$160,000 for the proposed 2 percent pay raise to be effective in January 1990; (5) \$69,000 for FERS and other personnel benefits; (6) \$25,000 for additional travel expenses; and (7) \$141,000 for

equipment and administrative expenses related to the section 18 study. The Commission's budget is strictly an operating budget. We do not administer any grant programs and, consequently, exercise very limited discretionary spending.

The Commission's primary function is to assure fair competition in U.S. international shipping, and initiate appropriate measures to address violations of U.S. shipping laws. As the sole regulatory agency for the maritime industry, the Commission must be in a position to act reasonably, efficiently, and effectively.

One aspect of efficient regulation is the ability to integrate new technologies, for the benefit of the shipping public as well as for the Commission. As the shipping industry continues its move to automated information systems, it becomes increasingly important that the Commission make similar use of available technologies. This is especially true in the area of tariffs that are required by law to be filed with the Commission. The Commission received some 715,000 tariff pages last year, all of which had to be processed by hand and placed in looseleaf binders. This cumbersome, archaic system cries out for change, as you so well recognized two years ago at a similar authorization hearing, Mr. Chairman.

An automated tariff filing and information system is, therefore, one of our highest priorities. Among other benefits, automated tariff information and processing programs will assist the Commission, including its field

offices, in its surveillance, enforcement, and trade monitoring efforts. Reliable, accurate, and easily accessible tariff information will also assist the Commission in monitoring the practices of state-owned or controlled carriers that have chosen to compete in our trades.

I would like to briefly summarize the ATFI project to date.

In fiscal year 1988, two separate draft Requests for Proposals were sent to prospective offerors for comment and a presolicitation conference was held. Also, the Commission purchased, through a small business contractor, the microcomputers and printers which will access the main computer, as well as a Local Area Network and an End-User-Requirements Study.

In January 1989, a final Request for Proposals was issued to over 200 potential offerors, with a deadline for submission of proposals of March 14, 1989, and an anticipated contract award in July 1989. It has been determined that a contractor-built and contractor-operated system is the best possible approach, as compared, for example, to a contractor-built/FMC-operated system.

It is probable that the winning, private-sector contractor will utilize an off-site computer or "host processor," which will be accessed by the public and the Commission through telephone lines and modems. The contractor will provide design, analysis, and engineering,

and will conduct studies of the system. Its services will also include computer time and operation of the entire system.

The system will substantially facilitate tariff filing, and the processing and retrieval functions required under the Shipping Act of 1984, the Intercoastal Shipping Act, 1933 and the Shipping Act, 1916. Using ATFI, carriers will file rates in a data-base, tariff-line-item format, instead of on hard copy pages. This will minimize the burden on both the filers and on the Commission. The data-base format will also facilitate limited retrieval of tariff data by shippers, freight forwarders, and other entities in the shipping industry.

Like filing, most access to tariff data will be by modem. This will allow the shipping public, regardless of location, to dial into the system to obtain a rate on a commodity. Users of this service, however, will be able to perform only relatively rudimentary retrievals and no analysis of the data because the Commission does not want to compete with third party vendors in the provision of value-added services.

It is anticipated that a substantial portion of the shipping public will have a frequent need for a larger volume of tariff data. The Commission will, therefore, continue to encourage use of the enhanced services expected to be provided by third-party vendors. In fact, it is likely that rudimentary retrievals through the ATFI system

itime Administration with the Department of Transportation, and his staff.

Mr. Creelman, we are ready for your presentation.

Mr. Creelman, we welcome you here.

STATEMENT OF WILLIAM A. CREELMAN, DEPUTY ADMINISTRATOR, MARITIME ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY ROBERT J. PATTON, JR., DEPUTY CHIEF COUNSEL; AND ERNEST HAWKINS, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION

Mr. CREELMAN. Thank you, Mr. Chairman.

Mr. Chairman and members of the Subcommittee on Merchant Marine, my name is William Creelman and I am the Deputy Administrator of the Department of Transportation.

I would like to outline the Maritime Administration's fiscal year 1990 budget authorization proposal. The administration transmitted our authorization bill to Congress on April 17. The House passed its Maritime Administration authorization bill, H.R. 1486, on the 2nd of May, and I will also present our views on its provisions.

MarAd is responsible for developing and maintaining a strong U.S. merchant marine capable of meeting our country's requirements for both commercial trade and national defense. This dual government role is based on the principle that a healthy merchant marine and maritime industry are vital components of U.S. sealift and contribute to the Nation's economic strength and security.

MarAd's total budget proposal of \$533,450,000 is made up of three distinct sectors: operating differential subsidy, the ready reserve force, and operations and training.

First, the requested ODS program funds represent the cash liquidation of existing contracts between the U.S. Government and private companies and as such are nondiscretionary. If ODS reform is enacted, an additional \$10,130,000 is requested.

Second, the requested RRF program funds are in direct response to and in support of the Department of Defense national defense planning and guidance as to the numbers and types of vessels required to support our military in the event of a national emergency. This program element represents the major portion of the increased funds requested.

Third, for operations and training we are requesting certain increases in maritime education and training programs and other operating programs.

Going to ODS, as authorized by current law, we are requesting an appropriation to liquidate contract authority for existing subsidy contracts amounting to \$225,870,000. This will provide for an estimated subsidy program of 82 vessels, 60 of which are liner and 22 bulk.

As stated in the overview, the budget also includes an additional \$10,130,000 in liquidating cash which would fund reform of the ODS program. This reform, if enacted, would support 113 vessels at a first year subsidy cost of \$236 million.

In addition to increasing the number of vessels supported, ODS reform would reduce the subsidy cost per ship, provide for modern-

FMC AUTHORIZATIONS

HEARING
BEFORE THE
SUBCOMMITTEE ON MERCHANT MARINE
OF THE
COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE
ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 1990 FOR CERTAIN
MARITIME PROGRAMS OF THE DOT AND FMC

JUNE 1, 1989

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will stimulate demand for third-party services, thereby benefitting both the shipping public and the information industry. Moreover, in addition to modem access, the system will make available full, unformatted data-base tapes which should benefit primarily the third-party vendors who can process these data, add value, and provide more sophisticated services to their customers.

The basic functions to be performed by the system, first made public in the 1986 Feasibility Study, have been retained in the RFP. However, the Commission has also attempted to be as flexible as possible as to how a contractor will perform these functions. This should lead to a variety of proposals from which the Commission can then choose the best. At the same time, however, performance and security standards are rigid and the system must be compatible with computer equipment readily and economically available to the public.

The ATFI contract will be for services in the following five phases, all of which will be contract options: Phase I, finalizing the system concept, including validation of requirements, which is expected to be contracted for in fiscal year 1989; Phases II, III and IV, system design, development and testing, and operation of a prototype system, which are expected to be contracted for in fiscal year 1990; and Phase V, full implementation of the system, the first year of which will be contracted for in late fiscal year 1990 or early fiscal year 1991. The Commission

is requesting \$2,200,000 for as many of these phases as can be contracted for in the next two fiscal years. Allow me to briefly explain this point.

The Commission appears to have sufficient funding for Phase I in fiscal year 1989. If the bids received are low, the Commission might be able to exercise the contract option for Phase II, as well. If they are high and even Phase I cannot be contracted for, work on the contract will have to be postponed until fiscal year 1990 funding is available -- if this is acceptable to the proposed contractor. These factors could also impact all subsequent phases and funding.

In fiscal year 1990, the Commission can exercise the contract options for Phase II (if necessary) and Phases III, IV, and possibly, part of Phase V. If the first year of Phase V cannot be contracted for in fiscal year 1990 (e.g., the Commission does not have sufficient funds), the necessary amount would be requested in fiscal year 1991.

The Commission's approach to the ATFI system has been deliberate at every stage of development, and we believe that it will lead to the best system, at the least cost to the Government.

As you know, Mr. Chairman, the House has recently passed an authorization bill, H.R. 840, that includes certain language relating to the ATFI program. In essence, these provisions require that: (1) the ATFI data-base be made available (in bulk) in a timely and non-discriminatory manner; (2) the Commission impose reasonable controls on

remote access usage by any one person; and (3) any information made available to the public may be used, resold or disseminated without restriction and without payment of additional fees. We have no objection to this language, and indeed believe it to be consistent with the Commission's final Request for Proposals in January 1989.

I would now like to turn from the ATFI project to address other recent Commission initiatives.

Enforcement of the shipping statutes is, of course, a key element in the Commission's overall regulatory program. As a result, the Commission has aggressively pursued an enforcement effort that is as objective, as consistent, and as reasonable as we can make it.

The Commission has taken several steps to improve its ability to enforce the Shipping Act of 1984. Our enforcement program has been restructured, placing more emphasis on targeting major industry malpractices on the trade routes where such malpractices are most likely to be prevalent. Once an enforcement initiative is completed in a particular trade, the Commission then maintains an appropriate level of monitoring to ensure that prohibited activity does not reoccur. Additionally, our enforcement activities are now conducted as a collaborative staff effort, cutting across all operating unit lines, to ensure a continuity of effort and to develop all relevant data and information. Moreover, we have further enhanced our training program for investigators, resulting in more

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productive and efficient investigations, and more effective use of trade information and investigatory leads.

As a result of these enforcement efforts, the Commission collected \$2,455,605 in fines and penalties in fiscal year 1988. During the last two fiscal years, the Commission collected approximately \$5,485,000 in civil penalties, which is more than six times the amount collected in the previous two years. Our efforts in fiscal year 1988 included a comprehensive settlement with 15 shippers and forwarders of refrigerated produce in the U.S./Far East Trade. This is the largest number of shippers and forwarders ever named by the Commission in a single enforcement action. During this past year, the Commission also entered into a \$2,550,000 settlement with a Hong Kong-based carrier. This is the largest monetary settlement since passage of the 1984 Act, and demonstrates the Commission's firm commitment to its ongoing enforcement program.

The fact that these cases involved the transpacific trades is indicative of the Commission's enforcement strategy. We are concentrating resources in the transpacific trades because of their size and importance. We are using those resources to conduct extensive surveillance in a continuing effort to uncover any malpractice activity.

In order to increase the Commission's overall monitoring and surveillance effectiveness and to continue to

aggressively pursue violators of the shipping statutes, the Commission is requesting six additional workyears related to the enforcement effort.

The Commission has also adopted regulations implementing the Foreign Shipping Practices Act of 1988. A Proposed Rule was published in the Federal Register in November of last year, setting forth procedures for investigations under this Act. The Commission recently adopted a Final Rule in March 1989 containing most of the provisions in the proposed rule. However, the Commission also published a notice seeking further comment on the definition of U.S. and foreign carrier under this Act. No petitions for relief has been filed under this new legislation. But, as noted below, the Commission is reviewing conditions in a number of trades to determine whether action should be taken on the Commission's own initiative.

Fiscal year 1988 continued to be an active year for the Commission in identifying and correcting unfavorable conditions in the U.S. foreign trades. The Commission addressed conditions in U.S. trades with Peru, Korea, Taiwan, and the People's Republic of China regarding laws, regulations and policies of those nations which may unfairly burden or restrict the operations of certain ocean common carriers, including United States-flag carriers, and the U.S. importers and exporters which depend upon their services. Presently, we are examining conditions in U.S. trades with Ecuador and the Ivory Coast.

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The Commission is conducting an ongoing inquiry into restrictive laws and practices affecting shipping in the United States/Taiwan trade. Last week, the Commission met and determined to initiate a formal investigation of shipping conditions in this trade under the Foreign Shipping Practices Act. The investigation will address various "doing-business" restrictions which affect the intermodal operations of U.S.-flag carriers in Taiwan.

The Commission has continued its efforts in fiscal years 1988 and 1989 to collect and analyze data pursuant to section 18(a) of the Shipping Act of 1984, and began drafting the report required by section 18(c) of the 1984 Act. Surveys on major issues facing the industry were prepared, and approximately six thousand were distributed to carriers, shippers, ports, marine terminal operators, freight forwarders, shippers' associations and foreign-based shippers. Results will be tabulated, analyzed, and included in our final report. This report will then be submitted to Congress and the Advisory Commission on Conferences in Ocean Shipping in September 1989.

We respectfully request favorable consideration of our budget request so that we may achieve our regulatory objectives in fiscal year 1990, and we ask for your support of our efforts to carry out our important statutory responsibilities.

I will be happy to respond to any questions.

Senator BREAUX. Thank you, Mr. Carey, for your presentation.

You point out the amount of fines that have been on the increase, I think \$5.48 million in civil penalties. That's more than six times the amount collected in the previous two years. What happens to the fines? Are they retained in your shop or operations, or do they go somewhere else?

Mr. CAREY. No, sir. They go into the general treasury fund of the government. They don't come to us. They're not used to offset our budget.

Senator BREAUX. Has that ever been considered to your knowledge?

Mr. CAREY. Not to my knowledge, and I've been there eight years, sir.

Senator BREAUX. It has not?

Mr. CAREY. No.

Senator BREAUX. Do you have an opinion whether it would be appropriate for those funds to be considered as part of your operating money?

Mr. CAREY. I guess I really don't. It might perhaps set the wrong tenor from the perspective of our statutory mandate by tying our performance to the amount of fines that we collect. Our overall objective has not been geared toward collecting fines for fines' sake. Our overall objective is to try to set an equitable trade environment in all the trades so that everyone can compete fairly and equally.

Senator BREAUX. You have been mentioning that the Commission has been addressing conditions in the trades with Peru, Korea, Taiwan, the People's Republic of China regarding policies and regulations that may or may not be unfair trade practices as far as restrictions on our ability to trade in those areas. Is there a pattern out there? Are things getting better? Are things getting worse? Your fines are increasing which indicates that you are doing either a better enforcement job or that the conditions are getting much worse, or perhaps both. Can you give us some kind of a general summary of the type of unfair trade practices that are being uncovered and how they are being resolved?

Mr. CAREY. Yes, sir. My opinion, first of all, of why we seem to be doing a better job of it. One, we have over the past two years been able to hire additional investigators, and we've been training them down at the Federal Law Enforcement Academy at Glynco, Georgia. I think that has had a positive impact on our abilities.

In general, our settlements for malpractices under the Shipping Act seem to focus on two areas. One is illegal rebating and the other one has been, particularly in the trans-Pacific trades, the misdeclaration of cargo, that is, declaring a lesser number of cartons than are actually in a container in order to obtain a better freight rate.

I would also say that I think that under the parameters of the Shipping Act of 1984, which are targeted more towards enforcement and less on the approval of agreements, that we have been able to focus our efforts more in the former arena. And that has resulted in I think the increase in the amount of penalties and settlements.

Senator BREAU. Is there a problem with any of our companies' ability to use the foreign ports as far as intermodal type of activities being restricted? I remember we had a problem I think with some of the companies causing difficulties whereby we are giving their companies, when they do business over here, a better deal by far than we are getting in their respective ports overseas. What is the status of those problems that we have talked about?

Mr. CAREY. That generally describes almost all of our section 19 activities. And that is basically and very simply stated what goes on. Foreign carriers are free to operate in this country without restriction, and yet there are restrictions in the foreign countries against U.S. flag carriers.

We have just recently started, as I mentioned in my statement, under the new trade bill to investigate a whole series of activities in Taiwan that have to do with everything from licensing of trucks to eight other alleged practices. I expect the Commission's Order to be ready to go on that investigation within the next two to four weeks. It will be our first activity under the trade bill, and it provides a very distinct time frame for us to move forward.

Senator BREAU. What does it actually do? What do you tell in this case either the country of Taiwan that they have to stop doing or start doing in order to equalize the playing field?

Mr. CAREY. Initially, Senator, we conduct an investigation to make certain that the allegations that have been made are, in fact, true.

Senator BREAU. Can you act without an allegation on your own initiative?

Mr. CAREY. Yes, we can and, in fact, this initiative against Taiwan was carried forth on the Commission's own motion.

Once we determine that there is, indeed, discrimination against U.S. flags, we can then take action any number of ways: from fines, to removal of tariffs, to not allowing them to participate in the U.S. trades. I feel that those sanctions are, indeed, very strong.

Senator BREAU. What action are you actually going to be taking with regard to Taiwan? Is that a decision that has been made?

Mr. CAREY. No, sir. It's too early to tell. After the investigation, the Commission will meet, take a look at the facts of the investigation and decide what direction to take.

Senator BREAU. Have they been cooperative or not?

Mr. CAREY. Really it's too early to tell because the order hasn't even been issued yet. We just took that action May 25, just a week ago.

Senator BREAU. Senator Lott?

Senator LOTT. Let me pursue that line of questioning just a moment. We have known for 20 years I've been in this city that restrictions on our U.S. flag ships are not fair, and other countries have those restrictions. Why haven't we been more aggressive before now? Didn't you have the necessary authority to take some actions before the recently passed trade bill?

Mr. CAREY. Yes, we did, Senator, and indeed we have. Under section 19, we have moved forward in the past against Peru, Taiwan, Korea, Japan and Colombia, and we currently have pending actions, the one I just mentioned on Taiwan, also a pending action on Korea, one on Ecuador, and one that just came in a short time ago

on the Ivory Coast. I have been on the Commission for 8 years. It has been my experience we have been quite aggressive with section 19 in those instances where the evidence supports the allegations.

One of the difficulties that we do run into is, once we get the allegations, being able to prove them. That has taken some time. We have also found that the State Department has been very cooperative in working with those governments when we have moved forward.

Senator LOTT. I find that surprising too.

I hope that you will move forward very aggressively in these areas.

Now, you are going to have to submit I believe under the law a review to Congress of the 1984 Shipping Act.

Mr. CAREY. Yes, sir.

Senator LOTT. Can you give us any information on how that review is progressing? Is it being helpful to you in your work?

Mr. CAREY. It is progressing I think very well. Commissioner Ed Philbin has been in charge of that study which was mandated by the 1984 Act. It is going to end up being some 2,000 pages long. There will be seven sections, two of which have already been submitted to the Commissioners for review. The other five are being prepared.

We have very carefully involved the industry through an industry advisory committee to make certain that the issues we identified as important to the Shipping Act, are also those identified by the industry. The advisory committee focused on seven or eight major issues that will be included in the report.

We are at the point now where all of the different subgroups of the advisory committee have submitted their position papers and rebuttals. They are now in the process of surrebuttals. But the report is proceeding well. It will be on time. It will be delivered to the Congress on or before September 20. And I think you will be pleased with the results.

Senator LOTT. Thank you, Mr. Chairman.

Senator BREAUX. Just one or two follow-ups.

You had told Senator Lott that in the last eight years you have been aggressive on section 19 filings. Can you tell me how many have been completed during that period?

Mr. CAREY. Senator, I don't have that information with me. Over the last two years, we have completed five, and at this point we have four pending. I would have to go back in the records and submit that to you, if I could.

[The information referred to follows:]

Section 19 Activity

There have been 17 matters considered by the Commission during the past eight years which could be characterized as involving the exercise of the Commission's authority under Section 19 of the Merchant Marine Act of 1920. The Commission's authority to adjust or meet conditions unfavorable to shipping created by actions of foreign governments restricting or discriminating against non-national flag ocean carriers, including U.S.-flag carriers, has been invoked in seven proceedings by petitions filed under Section 19 and in ten proceedings by the Commission on its own motion.

Although all of these 17 proceedings implicated Section 19 as the authority for any final action the Commission might ultimately take, four were originally initiated by orders issued under § 15 of the Shipping Act of 1984, 46 U.S.C. app. § 1714, ("Section 15") rather than Section 19. The Commission has invoked its fact-finding authority under Section 15 as a means of acquiring information on trade conditions which may be used to assess the need for action under Section 19. Such preliminary inquiries can often avoid more direct government-to-government clashes inherent in actions under Section 19.

When the Commission's Section 19 authority is directly invoked in a proceeding, whether by the filing of a petition or initiation of a docket by a Proposed Rule, the Commission utilizes every opportunity to encourage resolution of trade disputes through diplomatic negotiations involving the Executive Agencies or negotiations between the foreign government and affected commercial parties. Except for the three presently pending, all but one of the 17 proceedings were resolved without the necessity of Commission issuance of a Final Rule imposing retaliatory sanctions pursuant to

Section 19. Our ability to terminate a proceeding after resolution of most or all of the disputed issues without issuance of a Final Rule is, we believe, a measure of the success of Section 19.

Of the seven proceedings initiated by Petition, five were resolved to the satisfaction of the petitioning party, without the imposition of sanctions; one petition was withdrawn following the filing of a response justifying the foreign government's action;¹ and one petition was mooted by the signing of a treaty.² Of the ten proceedings initiated by the FMC, four were terminated without issuance of a Final Rule based on resolution of the issues satisfactory to the affected parties; two were essentially superseded by Executive Agency conclusion of bilateral agreements covering many of the issues of concern to the Commission; a Final Rule was issued in one proceeding in which repeated efforts to resolve the issues were unavailing; and three are presently pending. One of the pending proceedings, involving Taiwan, actually has been instituted recently as the first proceeding under the authority granted the Commission in the Foreign Shipping Practices Act of 1988.

¹ Berthing of a CCT vessel at Guayaquil, Ecuador, would have blocked the port's channel to other traffic.

² The treaty with Iceland covered the carriage of U.S. military cargo.

Senator BREAU. Can anybody help on that?

Mr. BOURGOIN. The only thing I would add, Senator, is that oftentimes they are not formally completed. By that, I mean they don't necessarily result in a formal rule by the Commission. More often than not—I'd say in 90 plus percent of the cases—the foreign government against whom the Commission is proceeding thinks differently about its regulation and withdraws it on their own, therefore avoiding the need for the commission to take a final formal action.

Senator BREAU. We really want to stay very closely attuned to the progress of these, and I would very much like you to keep the subcommittee apprised of the development on the Taiwan case, the Peru case, the Korean case, all of them that are being pursued, to keep us informed of what is happening, are they making some changes or not.

Mr. CAREY. Yes, sir.

Senator BREAU. The final thing is there have been rumors around town that maritime services are going to be placed on the table for negotiation during the GATT trade talks. And an effort was made to do exactly that during the Canadian free trade agreements, and we ended up with a resolution of the Senate urging that that be taken off the table.

Can you bring me up to date on any discussions within the administration to include maritime services under the upcoming round of GATT trade talks? Have you been asked or spoken to with regard to that possibility?

Mr. CAREY. No, Senator, we haven't. We're not involved in those discussions. I would guess that that would be something that MarAd or DOT are involved in. We do monitor what is going on, in particular trying to keep a watchful eye on any discussions that would impact, as we were previously discussing, on our section 19 authority.

Senator BREAU. But no one from the administration has spoken to the Federal Maritime Commission as to whether or not maritime services are going to be the subject of discussion? No one has asked you for recommendations or policy recommendations or any involvement whatsoever?

Mr. CAREY. No, sir. That's correct.

Senator BREAU. Do you feel you ought to be involved in working up that policy recommendation or not?

Mr. CAREY. Well, our stance has been pretty much in the past that as an independent regulatory commission our mission is to execute the laws that the Congress gives us, and that the policy side is a function of the executive branch. It has been my experience that the executive branch holds us, as an independent agency, pretty much at arm's length.

Senator BREAU. Fair enough. We'll get to the policy side in a second.

Thank you very much, Mr. Carey. There may be some other questions that we would like to submit, but this panel will be excused at this time. Thank you for being here.

Mr. CAREY. Thank you very much, Senator.

Senator BREAU. We would like to welcome up the next, the Hon. William Creelman, who is Deputy Administrator for the Mar-

ization of the U.S. fleet through the worldwide acquisition of ships and remove unneeded trade route restrictions and other barriers to free and economical trade.

Regarding the ready reserve force, as I stated at the outset, the composition of the RRF is determined in accordance with guidance from DOD as to the number and types of vessels necessary to support our military forces in the event of a national emergency.

In fiscal year 1989, the funding responsibility for the RRF program was transferred from the Navy to the Maritime Administration with Congress subsequently appropriating almost \$111 million to MarAd for the RRF.

For fiscal year 1990, \$239 million has been requested for the ready reserve force program. This funding level is the same as that in the House-passed bill, H.R. 1486. Our fiscal year 1990 request is not only comparable to previous funding for this program, but also is in accord with longstanding defense planning guidance.

This program includes three items. First, approximately \$87 million is requested for the addition of about eight vessels to the fleet. These vessels, which are presently not available in our active fleet, would bring the RRF to a target of 106 vessels by the end of fiscal year 1990. This increase is part of the DOD defense requirement which calls for 142 ships by 1994.

Second, approximately \$122 million is requested for maintenance and operations of an expanding and more complex inventory of ships resulting from the acquisition of more technologically advanced ships. Additional activations are also required in 1990 in order to assure the 5, 10 or 20 day readiness of vessels in the RRF fleet. These funds would also cover facilities, including dredging of our reserve fleet sites in order to accommodate the larger ships that are now becoming part of the RRF.

Third, approximately \$29 million is requested to finance the conversion of one crane ship. This crane ship would be the 11th ship in a 12 ship plan for which the first 10 ships were funded through DOD appropriations with the Maritime Administration carrying out the work. These ships are needed in order to off-load non-self-sustaining container ships.

The present situation dictates that we maintain a ready reserve fleet of militarily useful ships with a sealift surge capability sufficient to carry the required unit equipment for the early stages of any major military emergency. The type of ships presently being acquired are not readily available in our commercial fleet.

The acquisition of this early surge sealift, which is necessary to meet potential future national emergencies, is not a substitute for adequate support for the U.S. merchant fleet. These programs are complementary.

Going on to operations and training, we are requesting \$68,550,000 for the operations and training activity of the Maritime Administration. H.R. 1486 authorizes the same funding levels except for the research and development account.

Program requirements in this area of approximately \$3 million will be used to fund several necessary projects, including a long-deferred program of major maintenance at the U.S. Merchant Marine Academy. In particular, we must begin renovation of the academy heating distribution system. A 1986 study found that our 45 year

old system at the academy requires rehabilitation. Design work on this project is proceeding and is expected to be completed in 1989.

In addition, projects to shore up our rapidly deteriorating waterfront facilities at the academy are needed for safety purposes. The total cost of both projects is approximately \$1.9 million.

For the state schools, we are again proposing a more economical but workable furnishing of training ships through a ship-sharing arrangement.

MarAd and the state schools all agree that three of the present five state school ships will require replacements in the near future. We estimate the cost of procuring ships and converting them into suitable training ships at \$20 million to \$25 million and up per ship based on our recent experience with two such ships. We do not believe expenditures of this magnitude are prudent given the viable alternative of sharing two recently modified RRF training ships amongst the schools.

We provided a draft ship-sharing implementation plan to the presidents and superintendents of all five affected state schools several months ago. In addition to receiving their written comments and criticisms, I have met with this group to hear first hand their concerns about ship-sharing. We are revising our plan to incorporate their suggestions where possible, and our final plan will address all of their comments.

Because of the work we have already done to coordinate our plan with the state schools, the administration believes that the requirement in the House-passed bill for a new study on the use of school training vessels, U.S. flag commercial vessels, and RRF vessels to provide training opportunities for maritime academy students is unnecessary.

The administration's authorization bill again proposes changes in the student incentive payment program and associated service obligation commitments. The SIP program is not functioning as intended by Congress. Only one-third of the cadets who graduate from the state maritime academies participate in the Federal SIP program for the full four-year term, thus incurring a reserve obligation. Federal support to the state maritime academies is premised on the need for merchant marine officers required in the event of expanded sealift requirements during a national emergency.

A more productive approach is to phase out the SIPs and initiate a reserve commitment for all state school graduates to be subject to call-up in the event of a national emergency. As SIPs are phased out, funds made available would be dedicated to increased direct payments to the six academies.

In addition, the administration is proposing that as a condition of receiving Federal assistance, the state maritime academies would require that all of their graduates in merchant marine officer programs pass the exam for a merchant marine officer's license and accept, if offered, an appointment in the U.S. Naval Reserve or any other reserve unit of an armed force of the United States. This requirement is already in place at the U.S. Merchant Marine Academy. Assistance would be limited to those state maritime academies that enter into the agreement.

The administration believes that this is a more appropriate approach than the provisions in H.R. 1486 which would impose some-

what more stringent requirements on the SIP program without addressing the basic problems of the present lack of an enforcement mechanism for the service obligation and insufficient reserve obligations among the state academy graduates.

We are also requesting an additional \$95,000 to fund an expanded cargo preference compliance program which would be able to track defense subcontractor compliance. This would be in accord with recent agreements with the defense contracting agencies in response to a decision of the Attorney General.

Finally, an additional \$500,000 is required for technical and program studies to fund shared joint government-industry activities. H.R. 1486 transfers these amounts to a research and development account. The administration is particularly opposed to the provisions of H.R. 1486 which provide \$2,250,000 in funding for research and development vessel design and shipyard studies because it has terminated Federal support for these maritime research and development programs that are more appropriately carried out by the private sector. Our primary thrust is in the technical studies area that should be conducted by the ongoing joint government-industry effort.

In addition, we have two requests for extensions of expiring authorities and an amendment to the Merchant Ship Sales Act of 1936.

Both the administration proposal and H.R. 1486 recommend an extension of the Secretary's authority with the approval of the President to provide war risk in certain maritime and liability insurance when commercial insurance cannot be obtained on reasonable terms and conditions. The present authority has generally been limited to periods of five years and will expire in June 1990. Therefore, we recommend an extension of this authority for an additional five years.

Additionally, the administration is seeking an amendment to the Bankruptcy Code to clarify the Secretary's authority under Public Law 99-509 to foreclose on a Title XI mortgage where the mortgagor is in bankruptcy. The existing maritime Bankruptcy Code provisions will expire in December 1989, and we request continuance of this provision for both the Secretary of Transportation and the Secretary of Commerce until December 1992. The report to Congress on these provisions will be forwarded to you shortly.

Our authorization proposal would also amend section 11 of the Merchant Ship Sales Act of 1946 to reference the memorandum of agreement between the Department of Defense and the Department of Transportation which sets forth the rights and obligations of both departments with respect to the ready reserve force. Mr. Chairman, if your subcommittee decides to adopt the language in section 5 of H.R. 1486 to accomplish this purpose, we request that the clarifications and understandings recommended to you in our forthcoming views letter be adopted to ensure that the legislative history of these provisions is clear.

We do not support that portion of section 5 of H.R. 1486 which would preclude the Maritime Administration from contracting out certain activities of the national defense reserve fleet because this is contrary to administration policy as reflected in OMB circular

A-76 and unduly restricts our ability to conduct our functions in the most economical way possible.

Finally, the House-passed bill contains two additional amendments which the administration is unable to support. The first would authorize the Secretary to designate qualified nonprofit institutions as national maritime enhancement institutes. These institutes would be eligible for grants for research and other activities to improve the performance of the maritime industries. The administration opposes new grant programs for this purpose.

The second amendment to the House-passed bill contains Congressman Trafficant's Buy American Amendment which would give a 6 percent advantage to a qualified American firm competing against a foreign firm on a contract funded by authorized amounts. The impact of these provisions on our procurement authority is unclear. We believe these provisions could adversely affect the Department and should be deleted.

This concludes my statement, Mr. Chairman, and I'll be happy to answer your questions or those of other members of the subcommittee.

Senator BREAU. Thank you, Mr. Creelman, for your presentation.

Let me start off by getting into the question of operating differential subsidies. You point out that you are requesting \$225 million and some change for the ODS subsidy contracts. The next page you point out that you are asking for \$239 million for the ready reserve force program. I take it if we had an active and viable and first class merchant marine, we wouldn't need a ready reserve fleet. The ready reserve fleet is to make up for the deficiencies in the active fleet in the case of a national emergency dealing with the national defense of the United States.

Isn't it unusual or can you explain why we are spending more money for the ready reserve fleet than we are for one of the programs designed to help an active merchant marine fleet be in the shape that would mean that we wouldn't need a ready reserve fleet? We are spending \$225 million for ODS. We're spending \$239 million for the ready reserve fleet because we don't have a sufficient active fleet. It doesn't make any sense, does it?

Mr. CREELMAN. Well, I would disagree with the premise. I think no matter how healthy and active a fleet we have, we are going to need a ready reserve fleet.

Senator BREAU. I agree with that, but we are spending more money on the ready reserve than we are for an ODS to help the active fleet. We're going to need a ready reserve fleet. I'm just suggesting the ready reserve fleet is growing faster than the active fleet. We're going to end with a ready reserve fleet sitting in mothballs that we're paying to keep in shape and hope that someone knows how to run them. We don't know for certain because they're not being used on a day-to-day basis.

We need a ready reserve fleet, yes, but the problem is the active fleet is so bad and so under-manned as far as the number of active ships are concerned, that we have to have a ready reserve fleet. We end up spending more money than we are on the active fleet. Isn't that backwards?

Mr. CREELMAN. Well, it is certainly an anomaly in the present situation.

Our ODS reform proposal we believe will begin the process of rejuvenating the active fleet. In the meantime, until such time as that takes place, we do have a declining fleet in terms of numbers of ships, and we make up for that from a military point of view by trying to provide special purpose ships in the RRF.

Senator BREAU. Suppose you took half the money that you were spending on the ready reserve fleet, the \$239 million. Suppose you had \$115 million and put it into an ODS program. How would that help you? What would that mean for the active fleet if you did that?

Mr. CREELMAN. Well, I think if the program into which those funds were funneled was a program that didn't have some of the fatal flaws of earlier programs, I think that could be very helpful.

Senator BREAU. And that wouldn't cost us one cent more than we are planning on spending in your request this year, would it?

Mr. CREELMAN. No, if we did it on that basis, it wouldn't.

But we don't have that program ready. We don't have agreement amongst the various players in the ODS scenario, the operators.

Senator BREAU. The question is how long can we wait. I mean, Senator Lott and I have been here in Congress a total for, if you add up all of our years, probably 35 plus years. And during that period of time, we have not been able to fashion a program be they—this administration, the previous administration, the previous administration to that—Democrats and Republicans have never been able to get anybody together.

John Gaughan last year said the proposals were basically dead in the water. General Cassidy, when I spoke with him this year, says in his role as a person who is in charge of seeing to it that military equipment is moved to the points of the world that we need to have it in an emergency, that from an air transportation standpoint, things are fine. From a ground transportation, things are fine, and from a water transportation standpoint, things are sinking.

How long can we wait? Give me a prognosis 5 years from now if we do not get our act together and have any kind of meaningful reform from your perspective as the agency that is supposedly in charge of assuring an active and ready U.S. merchant marine. What, if we do not do anything, is going to be the situation from your perspective in 5 years?

Mr. CREELMAN. Well, I hate to think that we will not do anything.

Senator BREAU. That's the history.

Mr. CREELMAN. Yes.

Senator BREAU. The history of 35 years of our being here is that we haven't done anything. So, let's assume that we continue the pattern that has been going on around this city for a while. What happens in 5 years just for the sake of assumption?

Mr. CREELMAN. In 5 years we'll have a smaller fleet and probably a larger RRF.

Senator BREAU. So, one day if we continue the trend, we are going to have an RRF fleet that sits in mothballs with no one actively learning or knowing how to run those ships. It's going to greatly exceed the size of our active fleet. Right?

Mr. CREELMAN. Given the premise, that's correct. But I'm perhaps a hopeless optimist. I don't accept the premise.

Senator BREAU. I hope we don't emphasize the word "hopeless."

Mr. CREELMAN. I think the time is certainly approaching when we must take action. I am encouraged to think, based on conversations with various operators and various other participants in the marine business, that the time is ripe for some kind of progress in the ODS area.

Senator BREAU. Well, I won't belabor it. I'll let Mr. Lott maybe get into that.

But is there a forthcoming proposal from the administration? Let's see. We are in the last day of May or the first day of June I guess today, six months into this year. Is there a program or a proposal that is going to be forthcoming within a timetable that we can expect from the administration?

Mr. CREELMAN. Yes. I believe that a revised ODS program will be forthcoming before long. The Secretary of Transportation has asked for time to review the present programs. He has met with General Cassidy and with others in the industry. He has had a good deal of input as to the problems of the past, reasons for a lack of success in passing an ODS reform program, and looks forward to being able to fashion a revised program that, in the light of the developments in the last year or two, can be successful.

Senator BREAU. Well, with the people over at DOT, Elaine Chao is deputy I guess, and John Gaughan is special assistant to Sam Skinner, the Secretary.

Mr. CREELMAN. Chief of staff.

Senator BREAU. Chief of staff. I would hope that with that knowledge of this industry, that level over at DOT, that something will be forthcoming. I am an optimist also, but I don't know how long the industry can really wait.

Let me ask you the question I asked the previous witness with regard to the question of maritime services being on the table as a possible negotiating item during the GATT talks. Has your shop been brought into that possibility and asked for a recommendation? Have you submitted it? What is your recommendation, if so?

Mr. CREELMAN. Yes, we have been asked for our views on that subject, and we've prepared those and presented them to the Secretary.

Senator BREAU. And what were your recommendations?

Mr. CREELMAN. We have grave reservations about the presence of maritime services in the GATT. We are only one of many players and we're not the decision maker, but we wanted to be sure to express our concerns about the possibility of maritime services being a trading ship in a larger negotiation.

Senator BREAU. How does that work through the system? Have you been asked by Secretary Skinner for your recommendations and he submits them to the Trade Office, or do you participate in that directly?

Mr. CREELMAN. We have presented our comments within the Department.

Senator BREAU. To the Secretary's Office.

Mr. CREELMAN. To the Secretary's Office.

Senator BREAU. Now that you have presented your recommendations, what is your feeling as to whether they're going to be accepted and acted on positively or rejected?

Mr. CREELMAN. Well, I think our recommendations are well understood.

Senator BREAU. Well, I know that. They know what you are saying. You're saying don't put them on the table. My question is are they saying they're going to accept that recommendation or are they going to ignore it?

Mr. CREELMAN. I have no indication of where they stand in the grand scheme of things in the GATT negotiations.

Senator BREAU. Let me ask I'm reading in the paper that says that the administration says that they shall be kept on the table. Do you have any differing information from that?

Mr. CREELMAN. I don't. This is reminiscent of the situation that applied during the Canadian free trade situation. That played out.

Senator BREAU. Why in your opinion should they not be on the table for the record? When you submitted your proposal or your recommendation to the Secretary's shop, what did you say as to why you felt that they should not be?

Mr. CREELMAN. Well, we have a number of points. I suppose the salient point is that we see maritime services as having a very distinct and important national defense dimension, and therefore they need to be looked at separately from other service sectors.

Senator BREAU. Is it correct that you would agree with the proposition that since a healthy merchant marine is important to the national security and the national defense of the United States, that any trade talks, that have as a possibility the elimination of programs that help the merchant marine which is essential to the national security is not in fact in the national interest?

Mr. CREELMAN. That would be my point of view, yes.

Senator BREAU. Ship-sharing for the state academies. We have been around and around on that for years. Why don't we allow the use of these ready reserve ships for the academies? Aren't there some of the 100 or so ships that we have in ready reserve that would find one ship that would be suitable for the academies to use for training purposes? I get the words back over the years, well, they don't have the right type of ship. We have 100 and something ships sitting there in mothballs. Aren't there some of them that could be used by the academies to help the seamen learn how to run ships? At least you would have people familiar with the ships.

Mr. CREELMAN. I don't want to tell you that again, but I guess I'll have to. There are no ships that are presently suitable, configured in a way that lend themselves to being training vessels without major conversion.

Senator BREAU. I don't want to interrupt or anything, but I guess I will anyway because it seems to me that if we have a ready reserve fleet that is sitting there and the idea is that it is going to be ready to transport men and equipment in times of a national emergency, and then we have these academies who are supposedly training people to run ships in times of emergencies, so if they are learning something that is different from what these ships are designed to be used for and these ships are supposed to be for in

times of national emergencies, it seems that we have two segments that aren't being readied for the same purpose.

Mr. CREELMAN. I understand your point. And that is a different one than I was making.

There are 92 ships presently in the RRF. None of them are configured to handle the approximately 700 people, for instance, that you need for one of the larger schools or the 350 to 400 people that you need for one of the medium size schools.

Senator BREAU. We don't have to put them all on the ship at the same time.

Mr. CREELMAN. Well, really you do need to put one school at a time on board a ship. There are significant scheduling problems—and these have been addressed in the studies—where, if you are cruising with a small portion of the school, you would be cruising constantly. Your costs would go up geometrically, and the disruption of the school's schedule would be, I think, unworkable.

The State schools, however, have made a recommendation for our consideration in concept, not a detailed proposal or design, but they suggested that we consider the use of cargo ships in the RRF. Because no passenger ships are there, a modular conversion of those vessels would be necessary using basically containers, boxes, some of which would be configured as quarters, some as bathrooms, some as classrooms, laboratories, lounges, whatever, to fit all the needs of the school. Those would be installed under deck in a cargo ship using that cargo space for the housing and training of the cadets.

That can be done. MarAd has put together several fairly detailed plans using different cargo vessels within the fleet for this purpose. And I personally have visited and examined a ship at the naval shipyard in Philadelphia that has a portion of its space converted in this fashion. As I say, it can be done.

We think it provides a very unsatisfactory conversion. It's habitability is poor. I don't think it would be well received by the student body of any of the schools. And I have talked with some of the smaller schools who would be using such a ship if one were converted, and they agree with that point of view.

However, it can be done. But in a military emergency, we would then have to bring that ship in and undo it, take the modules out because the Navy wants the cargo ship as a cargo ship, not as a training ship.

Earlier we had an agreement from the Military Sealift Command that they would permit the use of a cargo ship in that fashion provided only that the modules could be removed within a 24-hour period. That seemed a little quick. This is a major operation.

Now with the change of command at MSC, we have had a different approach and an indication that they would be willing to agree to a 10- or 20-day conversion, whatever was reasonable to remove those modules. So, it would be, in effect, a temporary conversion capable of being removed fairly readily even with a 10-day factor or a 20-day factor. There would still have to be a temporary hookup.

Senator BREAU. Well, does all this give them a ship or not?

Mr. CREELMAN. It gives them a ship. And it would be a replacement vessel, a cargo ship. And, yes it gives them a ship. It costs substantially. We estimate the conversion costs, instead of being on

the order of \$20 million for the government-owned ship that it would be on the order of \$10 million or \$11 million to convert that ship.

So, yes, it can be done, and in our revised ship-sharing plan, we have outlined, in detail, that conversion and the costs of operating the state schools with five ships, three of which would be modular-converted, two of which would be the present standard school ships, one the Patriot State and the other the coming Empire State, and the Mormac Tide which is under conversion at Bay Shipbuilding in Wisconsin at this moment.

There are other alternatives considered in the ship-sharing plan as well. We have looked at a three ship-sharing proposal which would involve for the first time a diesel ship as one of the training ships as opposed to just steam ships. That proposal meets some of the objections that DOD and the military raised in comments on our earlier plan, speaking of the desirability of having at least one of the training ships be a diesel ship. This would accomplish that. And, again, three ships would be shared by the schools, not their favorite scheme, but one that is again different. And we have studied that and shown the costs.

In summary, though, when you study it and you look at the costs, you can find that ship-sharing with two ships is feasible. It can be done. We have modified the plan in the most recent version to leave with each of the schools another ship, an RRF or an NDRRF ship, at their dock full-time so that they have alongside their school at all times a vessel for alongside training. This was something that we had in mind earlier, but we did not outline in our first draft plan.

The new plan, which is about ready for at least draft distribution, takes a look at all the previous studies that have been made going back to 1977 when Congressman Studds made a study, which really came to the same conclusions, that there was hardly any way to avoid some form of ship-sharing, whether it be two ships or three.

Also, in his study he came to some of the same conclusions—his group came to the same conclusions about licensing and reserve requirements.

Senator LOTT. Mr. Creelman, maybe we have spent enough time on the ship-sharing question, but you were talking about two ships for the five institutions. Correct?

Mr. CREELMAN. Yes, as cruising training vessels with other vessels for alongside training.

Senator LOTT. And you would just work out a schedule to move them around from school to school depending on a number of factors, including the weather?

Mr. CREELMAN. We have worked out detailed schedules. We did it in our first plan. There were many comments from the schools, and they were rational, good comments. We have attempted, as well as we could, to take into consideration all of those comments which had to do primarily with fixed academic schedules.

Senator LOTT. Each school now has one. Right?

Mr. CREELMAN. Each school now has a ship, yes.

Senator LOTT. I was not aware of this latest thing that you just mentioned that you would propose to put one of the RRF vessels

next to the school and maintain it there. So, that was something that was added later on. Is that correct?

Mr. CREELMAN. That's correct.

Senator LOTT. I could be wrong, but I don't think Congress is going to go along with this proposal. I think Congress is inclined to support maintaining one at each school.

Mr. CREELMAN. We wanted to show in our study that if Congress was so inclined, it could be done with two ships. It could also be done with three. Obviously, it can be done with five. Our study will show what the costs are for each of the various alternatives, how the schedule would work and with how much spare time. And there is spare time, believe it or not, even in the two-ship scenario. There is a good deal of spare time, plenty of time for repairs on the vessels, and alongside training as well. It isn't nearly as generous extra time as you would have in a three-ship alternative, but the costs are less.

Senator LOTT. Well, let me just conclude this particular area by saying that I am just getting into the details of some of these proposals, but I'm going to have to have a lot more convincing before I would go along with the ship-sharing proposal. I would much prefer to keep the five vessels, and that's the way I would be inclined to vote. So, I don't know. If you all have some more information you can make available, I would like to have it.

Let me shift to another area. I understand the administration would like to have the state maritime academies impose a requirement that all graduates pass the Coast Guard licensing exam for an officer's license. And this is currently the practice of the merchant marine academy graduates. Could you elaborate on the administration's reasoning for seeking this requirement?

Mr. CREELMAN. Yes. The administration's reason for support of the state schools is to train licensed merchant marine officers. It seems as though a basic requirement, therefore for graduation ought to be passing the license examination.

Senator LOTT. There hasn't been that requirement for all these many years. Why now?

Mr. CREELMAN. Well, there are some of the schools that have already required that as a condition of graduation. I would say simply on reviewing the program and the reasons for the program and also the need for trained officers for the merchant marine to man the RRF, to man our active vessels as well, we need to have licensed graduates of these schools. We think it is an obvious requirement for a program that is intended to provide licensed officers to man merchant ships. To have a program that does not produce those officers doesn't seem to accomplish the basic purpose that we have in front of us.

Senator LOTT. I don't want to prolong this too much. But going back to some questioning from the Chairman earlier and referring to your statement, "the Maritime Administration is responsible for developing and maintaining a strong U.S. merchant marine capable of meeting our country's requirements of both commercial trade and national defense," obviously the Maritime Administration through several administrations and the Congress has failed miserably in that goal.

Mr. CREELMAN. I would have to agree with that.

Senator LOTT. But my question is similar to his. When and what are we going to do about it? Of course, usually the answer is, well, more money would solve the problem. I think there are a lot of innovative things that could be done that don't involve just spending a lot more money, although I think it is to our peril if we don't spend some more money to deal with our having a national sealift policy.

Now, I understand that Secretary of Defense Cheney has urged NSC to develop a national sealift policy, and General Cassidy has been talking about it. You talked about it some. There is beginning to be a greater emphasis in this area.

Do you think we are really going to do something about it this year? Somebody really needs to grab this area and go with it.

Mr. CREELMAN. Yes.

Senator LOTT. The person that ought to grab it is the President of the United States, George Bush.

I remember 16 years ago, when I first ran for Congress, that was a lot of talk by the President, President Nixon, of developing our merchant fleet. What happened to it? Here we are 16 years later. We've done not a thing about it.

So, I think this is a really dangerous situation that we have gotten ourselves into, and I'm ready to do anything we can do, everything we need to do with the military. Cargo preference. I know that is an old bugaboo that we fought several years ago, but I think we are going to have to really come up with some innovative, aggressive ideas. And we need to do it right away.

Mr. CREELMAN. Well, I agree with that. The national sealift policy that you spoke of, Senator, is out. NSC has it and has distributed it for comment amongst the appropriate agencies of the government. I think we will see action on that.

Senator LOTT. Have you all had input on that?

Mr. CREELMAN. Yes, we have. We met together with General Cassidy and the Secretary to discuss it. And it has a very high profile in the administration at this moment.

Senator LOTT. That's good.

Mr. CREELMAN. In terms of cargo preference that you mentioned, we have an item in our budget, a small item to be sure, but an item nonetheless, having to do with DOD contract cargo preference. That's a program which is growing geometrically. As we get a handle on the DOD contracts in foreign trade, they will represent a very significant amount of additional tonnage and revenue for U.S. flag operators. We think that is a major step in the right direction.

Senator LOTT. That is very encouraging.

Mr. CREELMAN. We need a small amount of money to help us administer the burgeoning bills of lading which are coming in.

Senator LOTT. Is that money in your budget?

Mr. CREELMAN. Yes, it is. It is only \$95,000 in this particular budget, four FTEs, but it's a very important small item. And we think that is a step in the right direction for the U.S. flag merchant marine.

But ODS reform is critical and we seek a way to find a program that can be sold to the various interests and not again see defeat in the future. We would like to be able to present this year an ODS

reform program which would make real progress toward helping the redevelopment of the U.S. flag merchant marine.

Senator LOTT. Thank you, Mr. Creelman.

Senator BREAUX. Let me just ask about one or two other points.

Can we, dealing with the shipbuilding base, hope to have or expect to have a shipbuilding base that is sufficient to take care of the needs of the U.S. merchant marine if the yards are only doing Navy work? It seems to me that that is what is happening. We are not building any ships. We haven't built any in I don't know how long—and there are no orders for a U.S. built major vessel. In your opinion, can we expect to have a healthy shipbuilding base if the yards are only going to do a limited amount of Navy work that is being dishd out?

Mr. CREELMAN. No, I don't believe so.

Senator LOTT. We don't have any program or proposal. Certainly there is no CDS, construction differential subsidy, proposal in your testimony. Is there anybody in the administration coming forward with any proposal similar to your ODS reform proposal which would be a proposal that would deal with the problem of why we do not build ships in this country anymore and what can we do in order to encourage that type of activity?

Mr. CREELMAN. We had a hearing before Mr. Murtha's Defense Appropriations Committee on the shipbuilding industrial base a week or two ago. We met with a number of commercial shipbuilders at that time, as well as their association, the Shipbuilders Council. I have since met with the Shipbuilders Council and discussed programs that we could work together on toward making U.S. shipyards more competitive in the commercial world.

Senator BREAUX. And what is your opinion, not the administration's policy because I take it it hasn't been formulated? But what is your opinion as a person who has been following this for a very long time? What is your opinion of what needs to be done?

Mr. CREELMAN. Well, I think a number of things have to be in place in order to have a competitive shipbuilding industry. One has to be able to expect a flow of work. The investments in plant and equipment at shipyards aren't going to be made if there is no expectation that they are going to be used to build ships in the future. So, we are going to have to have some reason to expect a long-term, steady flow of construction of new and innovative commercial ships to replace aging vessels.

Senator BREAUX. Well, that would be very nice, but is there any reason or is there any projected reason why a person who wants to build a ship would build it in the U.S. as opposed to building it in a foreign yard? Is there any program that anybody can think of that would encourage them to build it here? I know of none.

If I have a board of directors that say we want to build a super tanker and my job is to get somebody that can build it according to my specifications at the cheapest price, is there anything on the horizon that would be something that would encourage them to utilize that ship to be built in a U.S. yard?

Mr. CREELMAN. Well, of course, there are a number of programs, the Jones Act in particular, which requires that U.S. ships be built in U.S. yards.

Senator BREAU. Of course, that is obviously not working very well.

Mr. CREELMAN. Well, as it stands now, I think we have an aging Jones Act fleet which will have to be replaced before long, or the beginnings of replacement will have to start before long.

But I think the basic problems of the U.S. shipbuilding industry go back to a lack of any incentive to be competitive in the world market. We had a CDS program which simply paid the difference between world market costs and our own costs without providing any incentive for productivity. There is no reason why our yards, given some expectation of a continuing flow of work, can't be as competitive as yards anywhere in the world. I have no reason to think that we can't do as good a job on the number of man-hours per ton of steel as any yard anywhere in the world given the right equipment and given a reasonable backlog of work to count on.

Senator BREAU. But that cannot be done without some kind of financial assistance to equate our price with the world price?

Mr. CREELMAN. At the moment, that's correct. I'm talking productivity, just simply man-hours per ton, rather than cost. And at the moment, U.S. yards require more than twice as many man-hours per ton. As a result, there's a great reluctance to build in a U.S. yard.

Senator BREAU. I understand we need to discuss this some more, and I would probably like to have you up when we have General Cassidy up for our hearings on the future. This is not the time or the place, but I wanted to get into it a little bit.

You are the Deputy Administrator. That implies that there is no Administrator.

Mr. CREELMAN. That's correct.

Senator BREAU. What is happening? It is six months into this year. We still do not have an Administrator.

Mr. CREELMAN. I wish I could shed some light on that for you, Mr. Chairman, but I can't.

Senator LOTT. Mr. Chairman, would you yield?

Senator BREAU. Mr. Lott, certainly.

Senator LOTT. Just so that wouldn't be interpreted as a partisan question, I would like to join in saying I also have the same concerns. I think we are going to have to be careful that somebody doesn't hang out a vacancy sign on your agency and others. I know that internally you are doing it, but I hope that you will aggressively assert concern that the decision hasn't been made and a replacement is not on the job.

Mr. CREELMAN. I'll do that.

Senator BREAU. Gentlemen, thank you for being here, and I look forward to working with you in the future. And thank you for your testimony.

Let's welcome up our panel which will be Rear Admiral Floyd Miller who is President of the State University of New York Maritime Academy. Admiral, you are accompanied by a number of other very distinguished admirals and also Bill Hearn. And we welcome all of you here and are delighted to have your testimony.

For the record, Admiral Miller, you might introduce your colleagues who are with you.

STATEMENT OF REAR ADM. FLOYD H. MILLER, PRESIDENT, STATE UNIVERSITY OF NEW YORK MARITIME ACADEMY, FORT SCHUYLER, NY; ACCOMPANIED BY REAR ADM. JAMES. F. McNULTY, USMS, SUPERINTENDENT, GREAT LAKES MARITIME COLLEGE, TRAVERSE CITY, MI; CAPT. PAUL J. SMITH, JR., MASSACHUSETTS MARITIME ACADEMY, BUZZARDS BAY, MA; AND CAPT. LEONARD TYLER, MAINE MARITIME ACADEMY, CASTINE, ME

Admiral MILLER. Mr. Chairman, I'm Admiral Miller of New York Maritime, and I will be speaking on behalf of the State Maritime Academy Superintendents. Unfortunately not all of them could be with me today, but they have sent some representatives. I do have Admiral McNulty from Great Lakes, Captain Tyler from Maine and Captain Smith from Massachusetts with me.

We have submitted written testimony in regard to the administration's budget proposals, and I would like to summarize it here today.

Senator BREAU. Go ahead, and your entire statement will be made part of the record, of course.

Admiral MILLER. First, Mr. Chairman, I would like to express our appreciation to this subcommittee for your support over the years and solicit your support of a bill that is consistent with House authorization bill H.R. 1486 which supports the state maritime academy system. And I would point out that funding is consistent in that bill with the President's budget proposal.

This year OMB and MarAd have proposed the same conditions in the authorization process required for funding that they did last year. These conditions are constraints that are very damaging and will adversely affect our ability to produce licensed officers in the quality and number that we do now. We are the principal recruiters and trainers for the maritime industry. Despite our cost effectiveness, OMB and MarAd with no examination of alternatives and little or no consultation either with us, the Navy or the Coast Guard are attempting to force training ship-sharing upon us, as well as the same requirements proposed last year, namely, to graduate, our cadets (students) must accept a naval reserve commission if offered and pass the license exam to graduate.

I would like to point out that 46 U.S.C. section 1304 states that the state maritime academies were established and have been supported by the Federal Government to train merchant marine officers. A requirement that all state maritime academy students obtain a reserve commission in the Navy or other armed forces reserve means that all students recruited would have to meet age, physical and other restrictive conditions for commissioning set by the armed forces. We believe that requiring a student to accept a naval or armed forces reserve commission as a prerequisite to Federal funding is a violation of the Age Discrimination Act of 1975 as amended and the Rehabilitation Act of 1973.

Obviously, recruiting will be more difficult under the conditions of forced obligation, and therefore our student body size will decline and the number of licensed officers produced will decline. And we believe this will merely exacerbate the identified and growing shortage of licensed officers to meet mobilization demands.

Last year the appropriations bill directed MarAd to conduct a study to determine the feasibility of ship-sharing and to maintain our essential training requirements. No funding was to be expended for implementation of ship-sharing. Despite this congressional mandate, MarAd has drafted a ship-sharing implementation plan, and from what I heard today, apparently a second plan, one that we have not seen. And both of them, I must say, have been with little or no discussion with us.

The first plan was developed in isolation from the Coast Guard, the licensing agency, and with no visitation at the academies to determine use of the ships or impacts of the plan. MarAd I believe is simply avoiding us.

They could promote maritime education and training by discussing with us the concept design of use of the RRF ships. We could come up with a good concept. Instead of MarAd developing the concept, we have been forced to hire a contractor to put one together.

As confirmed by our high placement and the Commission on Merchant Marine and Defense Statistics, our country has a merchant marine manpower shortage. Presently we cannot fill the job requests that we are getting from the industry, and I think that's something that MarAd does not yet acknowledge. Loss of our training ships to a ship-sharing plan would exacerbate this shortage.

MarAd's plan proposes five schools share two ships with New York's soon to be replaced ship laid up as a backup. This ship is 37 years old and is being laid up because she is reaching the end of useful life.

MarAd's plan was drafted without considering life cycle costs. When these costs are considered, MarAd's plan would cost over \$160 million over the next 20 years.

MarAd's proposal also affects licensing. We can no longer meet international standards or our country's training requirements. IMO/STCW standards will not be met, and Coast Guard has told MarAd that in writing.

It is patently unsafe. Cadets are the crew, and there is not adequate time to train them.

Also, MarAd's plan does not take into account the National Transportation Safety Board finding regarding protracted unavailability of the training ship in regard to the Massachusetts Maritime ship fire in 1981. MarAd refuses to recognize that our cadets are the crew.

The quality of our cadets will go down at a time when the international maritime community is demanding higher quality due to more complex ships on the high seas.

Student costs will go up. Our students are paying for the majority of their education, more than the Federal Government pays. Less students can be trained despite the growing lack of mariners affecting our national security.

Senator BREAU. If I may interrupt you and apologize. That is the second buzzer of a vote. Senator Lott and I are going to go ahead and get the vote and come back and have you finish.

We'll stand in recess.

[Recess.]

Senator BREAUX. The subcommittee will please come to order. We will continue following the vote and apologize once again for the interruption. Admiral, if you will continue.

Admiral MILLER. Yes, sir. I was discussing the effects of ship-sharing and what it will do and the other plans that MarAd has in their proposal.

Well, as we have noted, the last several years, we have an alternative plan which converts RRF assets to training ships through the use of modules. This was discussed here earlier.

Two of the state academy ships are already or will be in the RRF, Massachusetts and New York. No procurement costs would be incurred under our proposals for Maine, California, and Texas. The RRF ships for these academies would be outfitted with modules for living, berthing and messing. The R&D has already been completed by the Navy on similar modules, and they are in use both in the military and the industry. The cost estimated by vendors is \$5 million per ship, not the \$10 million that the Maritime Administrator noted earlier. And we propose the use of RO-RO ships which we could put 70 40-foot containers in and get them off very quickly.

With the use of modules, we feel we can continue the required flow of manpower, meet safety, quality, licensing and essential training requirements. Some ships could be diesel and fill a serious gap in our Nation's training. The cost would be significantly less than MarAd's plan and would save between \$4 million to \$6 million a year, the cost of one modular conversion.

As you suggested last year and again this year, this is achieved by doubling the mission of the ships. They would serve in the RRF and as training ships. As training ships, they get free piers, free security, steam, electricity and our cadets do maintenance on them. We have already proven we can break out our ships for military exercises for \$1 million less than those in the RRF.

General Cassidy of Transcom stated in a recent speech, we have to look for mutually beneficial ways to improve our merchant marine. We have a mutually beneficial cost effective plan.

President Bush in his first joint address to the Congress called for cooperation to reduce the deficit and called for human ingenuity to solve our problems. Our proposal answers the President's call.

In closing, we request that the conditions proposed by MarAd in regard to the state maritime academies be rejected. We request a Senate authorization bill consistent with H.R. 1486. We are confident that the study required by H.R. 1486 will demonstrate that MarAd's ship-sharing plan is infeasible, too damaging, unworkable, unsafe, not necessary and not meeting essential training requirements. It will certainly remove MarAd's bias.

We have appreciated your support over the years and seek your support again. Every study, both Federal and private, every speech, every article speaks of the state of our industry. It is well-documented by the Commission on Merchant Marine and Defense. We want to help. We can provide mutually beneficial ways to meet our Nation's need if given the opportunity.

Thank you for the opportunity to testify, and we will be pleased to answer any questions.

[The statement follows:]

STATEMENT OF THE PRESIDENTS AND SUPERINTENDENTS OF THE MARITIME ACADEMY/
COLLEGES OF CALIFORNIA, NEW YORK, MAINE, MASSACHUSETTS, THE GREAT LAKES
REGION AND TEXAS

We, the Presidents and Superintendents of the State Maritime Academies/ Colleges of California, Maine, Massachusetts, the Great Lakes Region, New York and Texas, appreciate the opportunity to testify relative to the Department of Transportation's proposed reauthorization legislation for the Maritime Administration's (MarAd) program in Maritime Education and Training. We have deeply appreciated this Subcommittee's support in the past and solicit your support of reauthorization that is consistent with House Bill 1486, which fully supports the State Maritime Academy system.

We believe the changes sought by the Administration in the 1980 Federal Maritime Education and Training Act will greatly damage the quality of our programs and the product we provide to industry. We are concerned that they will also adversely impact on safety and the ability of the academies to meet international licensing standards. The changes will increase costs to the states and students alike, create arbitrary increases in the academic year for some schools, and will require adjustment in labor contracts at all the schools. The proposals also run counter to the recommendations of the Commission on Merchant Marine and Defense relative to merchant marine training. At a time when every related study, both Federal and private, every newspaper article and speech point to the absolute necessity for improving and strengthening our Merchant Marine, MarAd's proposal places the industry's prime recruiters and trainers - the State Maritime Academies - in jeopardy. These changes are sought with little or no consultation. They are made without exploring better and more cost-effective alternatives that support, not detract from, our National interests.

The proposals recommended this year are essentially the same as those proposed during the Appropriations process last year. The legislative proposal for MarAd encompasses several program provisions that, if enacted through the authorization process, would make changes relative to the Federal support of the several State Maritime Academies which would be very debilitating. The changes would:

- 1) require, without any serious analysis or study as to cost-effectiveness, benefit or feasibility, that the State Maritime Academies begin a more costly ship sharing program in late 1990,
- 2) end the U.S. Naval Reserve/Merchant Marine Reserve (USNR/MMR) Student

Incentive Program by phasing it out as the moneys are shifted to the assistance payment paid to each academy under a formula as yet unspecified,

- 3) require each Academy to establish as a requirement for graduation that each graduate make application for acceptance, if offered, a USNR/MMR Commission,
- 4) dictate that graduates may not be awarded degrees by the States until they have passed the Coast Guard license examination, and
- 5) disallow federal funds and the use of Federal ships for training purposes if 3) above, is not observed.

These restrictions clearly change the nature of the State Maritime Academy Program and how it has operated successfully to date.

The establishment of restrictions on receipt of funds or use of vessels is stated clearly in the enabling legislation for the establishment of Federal support for the State Maritime Academies (46 USC 1304):

"As a condition to receiving any payments or the use of any vessel under this Section, any State Maritime Academy shall: 1) provide courses of instruction on navigation and marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations, being introduced to the Merchant Marine of the United States, and 2) agree in writing to conform to such standards for courses, training facilities, admissions, and instruction, as are established by the Secretary after consultation with Superintendents of Maritime Academies." (Emphasis added.)

Last year, clear direction was given to MarAd by the Congress in regard to the training ship sharing plan. The following is a section of the conference report accompanying the fiscal year 1989 Continuing Appropriations bill:

"The fiscal 1988 Continuing Appropriations bill directed the Maritime Administration to conduct a study to determine the feasibility of

ship sharing while maintaining the essential training requirements of the State maritime schools. Because the study has not been completed and the conferees have not had the opportunity to review the findings, the \$9 million provided for State maritime schools does not reflect a phase-in of the ship sharing concept." (Emphasis added)

As noted in the title, the study proposed by MarAd is simply an implementation plan. It does not examine and compare alternatives and feasibility. It addresses cost-effectiveness with bias and error, and it does not select a program which maintains the essential training requirements of the state maritime academies. MarAd's proposal is not responsive to the Congress.

There has been no visitation by those conducting the study at any of the State Maritime Academies to determine the use of the vessels and ship sharing impacts on training. There has been little contact and consultation with the academies. Suggestions and comments by the academies have been either ignored or treated in broad indifferent terms.

The study has been developed by people with no training ship experience or educational expertise and has been essentially developed in isolation from those who have the experience, the State Maritime Academies. MarAd also developed the plan in isolation from the U.S. Coast Guard, the agency responsible for the licensing of our Nation's Merchant Marine personnel. The study, not only does not meet the requirements of the Congress, it is biased, capricious and arbitrary.

With implementation of ship sharing, as proposed, our programs will no longer meet International Maritime Organization Standards for Training and Certification of Watchkeepers (IMO-STCW) because they will lack productive access to training ships during the academic year. We are certain that the quality and capability of our graduates to meet industry expectations will be degraded.

The 1989 Appropriations Act, PL100-459, specified that since the conferees "have not had the opportunity to review the findings, the \$9 million provided to the State Maritime Schools does not reflect a phase-in of the sharing concept." It is clear that the Congress wants to review the findings before any implementation, that ship sharing must be determined to be necessary

in order for them to accept implementation, and that the FY 89 funds are not to be used for implementation. MarAd's plan has \$306,000 earmarked for ship sharing in FY 89 for that purpose.

The Second Report of the Commission on Merchant Marine and Defense recommended "that the President, through the Executive Branch, should ensure that Federal departments and agencies refrain from any policies and programs that are contrary to the national maritime policy and detrimental to the Maritime Industries." Despite this recommendation, the Office of Management and Budget (OMB) and MarAd through their proposals in regard to the State Maritime Academies are attempting to institute biased and capricious policies that will severely limit the ability of the academies to produce well trained graduates. In fact, these proposals place the entire State Maritime Academy system in peril.

There is a growing shortage of Merchant Mariners. The Commission, as well as the 1986 Navy Merchant Marine Manpower Study and GAO 1986 report on the Ready Reserve Force, clearly points out that unless actions are taken to correct the downward trend, the number of mariners required to be available to man our ships by the year 2000 will be reduced by one-half. In 1986 the median age of mariners was 59, today it is even older. Young vital dedicated men and women are needed to replace them.

The Maritime Administration's Training Ship Sharing Implementation Plan proposes the sharing of two ships by five geographically separated maritime academies (Maine, Massachusetts, New York, Texas and California). This is accomplished through the scheduled movement of the ships from academy to academy and, in the case of Texas, transporting the student body to the ship in Maine. Texas would not have a ship at their academy at all and New York and California would share a ship that would have to transit back and forth from coast to coast. The concept would provide 30 days of availability of the ship to each academy's students prior to its scheduled underway cruise. These 30 days are to be shared with weekends and other academics and, in some cases, exam weeks and the Christmas holiday season.

The Presidents and Superintendents of the State Maritime Academies believe that not only is the concept not cheaper than better alternatives but we submit that the proposal will adversely affect the quality of our

graduates. We are also concerned that the proposal adversely affects safety.

Our joint comments relative to MarAd's plan are enclosed as Appendix A. We note, for example, that International Maritime Organization Standards for Training and Certification for Watchkeepers require a year of shipboard experience for the deck license. Many of our programs rely on constructive sea time gained on the training ships during the academic year. The proposed training ship scheduling in the MarAd plan will not allow the various academies to meet IMO-STCW requirements.

Since the U.S. Merchant Marine Academy program with no training ship requires one year at sea to meet licensing requirements and only six months at sea are required for State Academies with training ships, we are concerned that the MarAd proposal with little alongside time during the academic year might not even meet current requirements for licensing. In any case, we are certain that implementation would present the industry with a lesser trained product with less developed skills than the current system at a time when the nations of the world are mandating improvements in training due to the more sophisticated vessels on the high seas.

Finally, the MarAd approach will impact on safety in that the academies will have less time to indoctrinate the novice, conduct the desired drills, and build watchstanding skills to properly safeguard the students who are in training. The National Transportation Safety Board (NTSB) report of 2 November 1982 on the investigation of a fire on board the training ship BAY STATE at the Massachusetts Maritime Academy during which a life was lost addresses the fact that the academy was without its usual training ship for a lengthy period that year and found that the practical experience of even the seniors (who were soon to become licensed) was low due to the protracted unavailability of a training ship. We are concerned that the proposal will create that situation as a matter of routine.

We strongly suggest that there is an alternative proposal. The proposal at Appendix A will create an annual net savings over the current annual cost of about \$4 - 6 million per year over the 20 year life cycle of a ship. The proposal converts Ready Reserve Force assets through modules to training ships. Modules of this type are already in use in the Ready Reserve Force. The Navy has conducted the research and development. The State Maritime

Academy proposal will help our nation meet trooplift requirements, continue the flow of already scarce manpower, and will meet safety, quality, licensing and all essential training requirements. Last but not least, the Navy is in agreement.

The proposal is attached with Funding Profiles at Appendix A.

The requirement to apply for and accept a USNR/MMR commission by all graduates as a prerequisite to graduation runs counter to 46 USC, Section 1304(a) which states, "The Secretary shall cooperate with and assist any State Maritime Academy in providing instruction to individuals to prepare them for service in the Merchant Marine of the United States." Subpart A of 46 CFR, part 310.4(c)(5) states, "the training ship is furnished by the Maritime Administration for the purpose of training young men and women to become officers in the Merchant Marine of the United States." (Emphasis added) Clearly training for the Merchant Marine, not the Navy, is specified and required.

We believe this requirement will be detrimental to our nation's needs. It will severely reduce the size of the individual State Maritime Academies and thus jeopardize their continued existence at a time when, as the Commission on Merchant Marine and Defense points out, they are needed to produce mariners today and as a resource to be used in time of national emergency to increase the production of officers. It will reduce the number of Merchant Marine officers delivered into the labor pool. The Merchant Marine Reserve program should remain a volunteer program for those students who are attending State Maritime Academies and paying their own tuition. Freedom of choice is an important concept which should be preserved. The Navy has no interest in a larger Merchant Marine Reserve (USNR) program, has no interest in a non-volunteer program and for the second year in a row was not consulted on this proposal.

Requiring all Cadets to apply for commissions will exclude from officer status in our Merchant Marine all citizens who may be too tall, too short, too old or who otherwise are unable to fit within the Navy's commissioning standards - which have been established to meet Navy, not Merchant Marine, needs or who simply are not attracted to an affiliation with the Navy. Many of our Academies have historically attracted larger numbers of so-called "non-traditional" students who are older or otherwise unacceptable for Navy

commissions. The physical requirements to obtain a Coast Guard license are much less stringent than those to obtain a commission in the Armed Forces and such a requirements raises questions as to compliance with Section 504 of the Rehabilitation Act of 1973, barring discrimination on the basis of physical handicap, and the Age Discrimination Act of 1975, as amended, barring discrimination against those of age 40 or older. MarAd claims that we will be able to continue accepting such students because "the Navy will reject their applications for commissions" and they will be free of any government obligation. This approach is devious, insincere, immoral and downright foolhardy! How can we propose at the outset of any recruiting activity that the candidate be prepared to sign commissioning application documents knowing them to be false or inappropriate? Beyond these moral and practical issues, however, is the fact that State Maritime Academies exist under law to train officers for the Merchant Marine, not the Navy!

We can understand the interest in making the Student Incentive Payment (SIP) for the Merchant Marine Reserve program more effective, efficient and reducing its administrative burden. However, it must be pointed out that by the Navy's own analysis when compared to other NROTC programs, it compares favorably at a much lower cost per graduate. We could work with MarAd to that end if given the opportunity to resolve this issue.

MarAd's proposal to control admissions/graduation requirements for the State Academies, conditioning them to approximate the Federal Merchant Marine Academy, raises Constitutional questions which under the Tenth Amendment addresses States Rights guarantees. If MarAd were to have its way, it would be imposing an "affirmative obligation" on the States that sponsor Maritime Academies to train only people who would enter the MMR program. Furthermore, the Federal Government has not pre-empted the States in the operation of State post-secondary educational facilities. It is the prerogative of the States and the Academies' directing bodies, that provide the majority of the funding, to control these requirements. On the other hand, MarAd has every right to control admissions and graduation requirements at a Federally owned, Federally funded and controlled institution. Of course, MarAd can write standards for the State institutions' professional curriculums and sea-time equivalencies for Federal Merchant Marine Officer's licenses; overall academic control is a matter for the sponsoring State.

Levying the admissions/graduation requirement on all Cadets to accept a commission, if offered, without any quid pro quo such as SIP and without any "enforcer" is folly. Why should Cadets, who receive nothing in kind and who pay for their own tuition, room, board and books, want to become involved with this long-term commitment? This requirement eliminates non-physically qualified applicants who are physically qualified for the Federal Merchant Marine Officer's license but not a Naval Commission. This requirement appears to run counter to other Federal statutes offering protection for the physically impaired and those over 40 years in age, individuals that the Commission on Merchant Marine and Defense notes are sorely required in the Maritime Industry. The States who must maintain the State Academies on a paying basis can not accept requirements which will limit the number of students. This is not a Federal prerogative.

It is a mistake, in our view, to experiment with every aspect of Federal support to the State Academies when the system in being has successfully served industry and the Nation in peace, recession and war and at very low Federal cost for 115 years. We still remain the cheapest way for the Federal Government to achieve all of its objectives with respect to the education and training of licensed Merchant Marine Officers and the development of a Merchant Marine Reserve.

Under the 1980 Federal Maritime Education and Training Act, the Federal Government provides funding to the State Maritime Academies for:

1. A training ship plus ship's maintenance/repair and fuel money when authorized (Great Lakes excluded) to allow our Cadets to meet the Federally mandated "sea time" license requirements.
2. \$100K per school for administration of a State Nautical School.
3. Student Incentive Payments (\$100/mo) for students accepting commissions in the U.S. Naval Reserve/Merchant Marine Reserve.

The State Maritime Academy system is our Nation's most cost-effective system to produce licensed officers, officers already noted by every study to be in short supply. The President's Budget Proposal intends to put the State Academies on a parity with the U.S. Merchant Marine Academy whose

budget this year is over \$23 million, producing approximately 200 graduates per year. Over the last several years, the State Academies have produced on the average over 500 licensed officers per year at an average cost of \$9 million/year. From among those graduates who accept Reserve commissions, approximately 60 volunteer for active duty in the Navy or Coast Guard. Each of these accessions is achieved at maximum total cost in Student Incentive Payments of approximately \$4,500 over four years, a considerable savings to the Nation over any other source of Mariners fully qualified for immediate sea duty and leadership roles. This is our Nation's most cost-effective commissioning source. For our island nation, so dependent upon the sea and world commerce, this is a very valuable contribution to our security. Our students pay tuition and fees for their education, including training cruises, naval science courses, and attend eleven month academic years which deprive them of the opportunity for summer employment. They earn Federal licenses along with their degrees while in a uniformed and disciplined environment. The respective states and industrial sources contribute the balance of academy expenses over tuition. The Federal Government's share, including student subsidies, ship maintenance and repair and fuel oil, is cost-effective.

This sharing of effort represents one of the best bargains available to the Government, and yet the Administration annually seeks to reduce the maritime education budget by not including or modifying support for the State Academies. This very small savings to the Federal Government imposes a severe training hardship on our institutions while reducing the incentive to develop an adequate number of required Merchant Marine Officers and a Merchant Marine Reserve component of the U.S. Naval Reserve. It runs totally counter to the recommendations of the Commission on Merchant Marine and Defense and the best interests of our Nation's security and economic well being.

We submit that the continued existence of our State supported institutions assures our Nation's most economical, cost-effective method of producing Merchant Marine officers. We believe that our students return far more to the economy and the National defense needs of our Nation than they cost and that the survival of the State Maritime Academies is in the national interest.

The Commission on Merchant Marine and Defense, in addressing Maritime

Education and Training, expressed great concern for the possible loss of the six State Maritime Academies as a result of lack of Federal support. The Commission stated that the closing of these institutions would eliminate capabilities that could not be easily reconstituted even in time of crisis. If a United States Merchant Marine is required for national and economic security, the training pipelines must remain open and not be hampered by unrealistic and unfeasible Federal policies. Let us reverse these trends by positive government action, not misdirected action.

The youth of our Nation need a clear signal that the Maritime Industry is not dead. They are willing and ready to go to sea. We earnestly request that the opportunity to do so through cost-effective education and training at State Maritime Academies be continued. We also believe this system should not be modified but that it must remain in place for National Security as a necessary expansion base.

President Bush in his first Joint Address to the Congress said we cannot tolerate real reductions in defense and that he will not sacrifice American preparedness. He asked for cooperation in cutting the budget deficit. He called upon human ingenuity to solve our problems. We feel our alternative proposal to MarAd's ship sharing meets the President's call. We can save money; we can help our Nation's defense. We want to help.

As suggested by House Authorization Bill 1486, we feel that a joint review of training ship alternatives by MarAd, the U.S. Navy, the U.S. Coast Guard and the State Maritime Academies is in order. MarAd's proposals to date have been biased and infeasible. A joint review, exploring all alternatives, would be in the best interests not only of the Maritime Industry, but our Nation.

We request that proposals solicited again this year by the Maritime Administration be rejected as not feasible and not in our National interests. Specifically, we request through Senate action similar provisions as contained in House Bill HR 1486. This will ensure that the State Maritime Academy alternative proposal to ship sharing will be examined (see Appendix A) in addition to rejecting MarAd's proposals effecting admissions and graduation requirements in regard to the State Maritime Academy system.

In addition, we request that "fuel oil" reimbursement be added to the authorization. Although reimbursement is allowed by the 1980 Federal Maritime Education and Training Act, MarAd historically has denied reimbursement, if funds are available, unless the Authorization Bill for that year specifically mentions "fuel oil".

We would be pleased to assist you in any studies you may wish to undertake with regard to the issues that we have raised and would be happy to have the opportunity to discuss our situation with you and your staff at your convenience.

Senator BREAUX. Thank you very much and all of your colleagues for being with you.

Admiral, state again, if you will, the position of the state academies with regard to the question of whether a student should enlist in the reserves or the proposed requirement of having to pass a Coast Guard license examination.

Admiral MILLER. Let me just take the license exam first. We feel that the Federal Government dictating graduation requirements is against the Tenth Amendment.

But having said all of that, I can tell you that over the last several years—and I looked at this last year—we had on the average at all the state academies five cadets per year out of 550 or so graduating that did not take their license. Now, I haven't run a check this year, but we just had graduation at my school. I had one graduate that did not take his license. Why? Because he was going in the Navy. He was NROTC. He said I'll never use it. Why should I take it? I'm going in the Navy.

I don't understand why MarAd is even looking at this. If they would look at the record, they would see that we do it. And as you pointed out in your question, why are we changing something?

But having said that, we feel it is against states' rights.

Senator BREAUX. What about the ready reserve?

Admiral MILLER. On the merchant marine reserve, the major problem is that our cadets—a large number of the ones we have now, for instance—would not meet the physical requirements. The physical requirements are totally different or more stringent for a naval reserve commission than they are for a Coast Guard license.

And let me just read this to you for a minute. This is taken from an answer to a question that I did for Congressman Jones, and it is in regard to Great Lakes Maritime Academy. If there was this restriction for commissioning placed on us now, in the case of Great Lakes Maritime Academy, it would bar acceptance of more than half of the presently accepted students of the 1989 incoming class, and more than one-third of the presently enrolled upper class would also fail to meet these requirements principally because of age. I would say each state maritime academy would have similar but varying problems.

Our cadets pay for their education. It is not a free school for our students. They want to come. Sure, some of them wear glasses. Some of them are over age. But at a time particularly when we

can't even fill the requirements of the industry, why should we have to change and produce less graduates?

Senator BREAUX. Explain to me for the record the difference for having these requirements for the Merchant Marine Academy graduates and not having them for the state academy graduates. What is the basic difference?

Admiral MILLER. Well, the Merchant Marine Academy, of course, provides a free education. My school is the same size as Kings Point. My budget is \$11 million; theirs is \$23 million. And that is with my cadets paying their tuition. My cadets pay up to \$22,000 for their education and the government puts in \$13,000 over a four year period for my cadets. So, they get a free education. Our cadets do not.

Over one-third of our graduates today take commissions. In fact, one of the reasons that drives that at my school is that 17 percent of my campus is in NROTC which is separate and aside from those figures. So, I put a lot of people in the Navy right up front.

The Navy I know is not concerned over these figures because they're exactly the same as the NROTC. Fully one-third graduate with commissions. So, why change?

But the real problem is why make our requirements the same as Kings Point when our cadets are paying and theirs are getting a free education?

Senator BREAUX. Let me ask you the question on which we had discussion, and you heard the discussion on the ship-sharing. I guess the thing that disturbs me that I think I heard you say that in deciding what type of a ship training program we would have, that you all have not really been involved in the process of discussing what your needs are as to whether what we have is not working. You really have not been involved in the process.

Admiral MILLER. Sir, we had a meeting with the Maritime Administration about 16 months ago, and they told us that they were going to have this study. Subsequent to that, they sent us a few questionnaires. We never met with them again until about two months ago, and it was really at the insistence of the House Merchant Marine and Fisheries Committee and the House Appropriations Committee that we had this meeting. That was the first meeting, and it's really the only meeting we have ever had with them. They have never come to our schools. They have sent some questionnaires back and forth, but there has never been any dialogue whatsoever.

Senator BREAUX. What is the status of the ship-sharing program now as you understand it?

Admiral MILLER. Well, apparently there is a second draft out as the Deputy Administrator mentioned today. There was a draft that was sent out in December which we commented on, which he mentioned, and sent back. We have had no real comment since then.

They did put together a concept on ship-sharing using RRF ships and modules, which they gave to us at that meeting which was at the insistence of the House Merchant Marine and Fisheries Committee and Appropriations Committee. They didn't discuss it with us before they put the concept together. It took ships that wouldn't fit alongside our piers. They made modules out of containers that

don't exist. They would have to be built. They were totally different size than an ISO container, and it cost \$10 million.

Senator BREAUX. It sounds like we have a communication problem.

Admiral MILLER. Absolutely.

Senator BREAUX. Creelman said—and I don't know if you read this part of it, but in his testimony he said:

We provided the draft ship-sharing implementation plan to the presidents and the superintendents of all five affected State schools several months ago. In addition to receiving their written comments and criticisms, I have met with this group to hear firsthand their concerns about ship-sharing. We are revising our plan to incorporate their suggestions where possible, and our final plan will address all of their comments.

Is that not correct?

Admiral MILLER. I guess it is correct. I have not seen the second draft. We got their draft in December, and we provided comments on it. And then we had that one meeting with them. They never went to see the schools in operation. No one from MarAd has ever been at sea on my training ship to see how we operate, and they don't understand that the cadets are the crew. I can't understand how you can do a study and not meet face to face and go over these things.

And it's an implementation plan, not a feasibility study as required by the Congress.

Senator BREAUX. What is wrong with the proposal from your perspective or the state academies' perspective as was outlined this morning?

Admiral MILLER. Well, I will give you two things. We have many, many problems with it. But the two glaring problems: one, we cannot meet IMO/STCW licensing standards and therefore that impacts on our mission to produce licensed officers.

And secondly, in my view having spent my life at sea, 24 years at sea, in command of three vessels, chief engineer of one and assistant reactor officer of another, it is unsafe, sir. I get one week to prepare my cadets to take that ship to sea. We have no crew. The cadets are the crew. They have to go on board and light the fires under the boilers and bring steam up and get her under way. I literally get one week under their plan to do it.

I feel very comfortable with the present ship. In fact, I am going down to meet her tonight in Miami. The cadets have gotten her under way, but they have been with that ship all year. They have traced systems. They've been holding classes on it. It's our main laboratory. Under their plan we don't have it anymore. We move aboard. Right now it takes us 2 weeks—I'm speaking for New York—to load the ship and run drills for the Coast Guard. That is not going to change. We still have to move from the campus onto the ship, and we still have to load the ship and we still have to do Coast Guard drills. So, with their plan I only get one more week. I can't train cadets in one week to put the key in and get under way.

MarAd says they have a ship keeping staff. In MarAd's first plan—I have not seen the second—it never said they were even licensed officers. It's just fraught with problems.

Senator BREAUX. Well, we're going to follow it very closely. I don't think anyone in this Congress wants to see the ship-sharing

program be one that does not provide for solid instruction and at the same time provide the safety conditions that are needed. It is not acceptable—I am not saying that is the case because I'm not certain—that one week of training for a person to be able then to operate that ship as the crew of that ship is not something that I think is an ideal situation by any stretch of the imagination.

Admiral MILLER. I was commanding officer of a brand new ship never crewed before and I was assistant reactor on another new one. In both cases, the Navy gave us three months with fully qualified people to get those ships ready and get them under way. I can't do it in one week with a group of college kids.

If I could make one more comment, Senator, about the movement of just an RRF ship alongside our pier. On the surface it would probably sound good, but I have great difficulty in understanding why we just couldn't have an RRF ship that we could put modules in because if we do that, then we don't charge for the pier. We don't charge for the maintenance. We don't charge for the electricity and the security. And I can tell you in one year with our plan, we will pay back for the modules. But here they are going to pay to put a ship there and get a contractor to keep that ship alongside our pier. And I know the states are going to want to be paid for the steam and the security and everything they put forth when we could provide it free if it's a training ship.

Senator BREAUX. I was going to ask our superintendent of the California school. I am disappointed that he is not here.

Admiral MILLER. Apparently he is tied up with some problems, and the cost to fly from California to Washington is considerable.

Senator BREAUX. Do any of you know anything about the problems that we have been reading about at the California Maritime Academy with regard to discrimination?

Admiral MILLER. I do not.

Senator BREAUX. I won't pursue it with you, but the article has given a number of us some concern. I'm not prejudging whether the articles are correct or not. But how it is to be handled is something that we are going to watch very carefully.

Gentlemen, we appreciate your sharing some of your concerns with us. They are some of my concerns as well, and we intend to follow up and work with MarAd to try and provide the assistance that is important. Your schools provide a very valuable service at a very critical time in the history of our U.S. merchant marine, and we want to make sure that you are able to continue to provide those services and, in fact, to improve upon the services that you are making available at the present time. Thank you very much for being with us.

Admiral MILLER. Thank you, sir. We appreciate your support.

Senator BREAUX. This will conclude this hearing, and the committee will stand adjourned until further call of the Chair.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

WILLIAM E. COHEN

NAME

United States Senate

WASHINGTON, DC 20510

May 19, 1989

The Honorable John B. Breaux
Chairman
Subcommittee on Merchant Marine
Committee on Commerce, Science and Transportation
Room 508, Dirksen Senate Office Building
United States Senate
Washington, D.C. 20510

Dear John:

I understand that the Maritime Administration's (MARAD) plan to impose ship-sharing on the state-run merchant marine academies may be the subject of hearings before your committee early next month and I would like to take this opportunity to provide my views on this proposal.

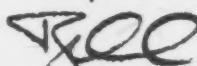
I believe that MARAD's ship-sharing plan in which the five state academies with ocean-going vessels would share two ships is fatally flawed. It fails to recognize that in order to provide effective training, ensure the safety of student crews and meet international licensing requirements, each of these academies must have a ship assigned for its use on a year-round basis. I have explained my reasons for this and other objections to the MARAD plan in a March 6th, 1989, letter to Acting Administrator Gaughan and am enclosing a copy for your review. The core of my concern, however, is that without dedicated ships these state institutions will expire. As a Senator who believes that the viability of the U.S. merchant marine depends on these schools and whose constituency includes the Maine Maritime Academy, I am not ready to accept that outcome.

A credible alternative to the MARAD proposal has been advanced by the five academy presidents which involves the use of existing ships in the Ready Reserve Force. Such an approach would make good use of existing assets, allow the state academies to maintain their present course and will, I believe, prove to be less expensive than MARAD's two ship proposal. I noted with satisfaction that the House voted earlier this month to postpone implementation of ship-sharing for a year to provide time to study the academy presidents' recommendation. While its merits appear to be self-evident, I would be pleased if your subcommittee decided to adopt the position already taken by the House of Representatives in this matter.

Finally, I would like to suggest that, in developing your witness list for any hearings on this issue, that you include the former, two-term Governor of Maine and now President of the Maine Maritime Academy, Kenneth M. Curtis. I can assure you that he would be a highly effective spokesman both on the adverse impact that ship-sharing would have on the academies and on the merits of their use of Ready Reserve Force assets.

With thanks for your consideration of these comments and suggestions, I am

Sincerely, -



William S. Cohen
United States Senator

STATEMENT FOR THE RECORD OF
MATSON NAVIGATION COMPANY, INC.

Dear Chairman Breaux:

In connection with the Committee on Merchant Marine's consideration of the FY 1990 Authorization for the Federal Maritime Commission, Matson Navigation Company, Inc. (Matson) submits the attached proposed amendment to the Intercoastal Shipping Act, 1933 for your consideration. Matson is an unsubsidized Jones Act operator in the U.S. Pacific Coast/Hawaii trade and, accordingly, is subject to an array of shipping laws and regulations. The objective of the suggested amendment is to improve administration of the Intercoastal Shipping Act, 1933 by removing from it the meaningless and outdated requirement that bills of lading and contracts of affreightment be framed under glass and conspicuously posted aboard vessels. The amendment language was unanimously adopted by the House Merchant Marine and Fisheries Committee during its markup of H.R. 840. The amendment appears as Section 3 of H.R. 840, the Federal Maritime Commission's FY 1990 Authorization bill, which passed the House of Representatives on April 25, 1989. The need for this amendment is further discussed below.

Section 2 of the Intercoastal Shipping Act, 1933 requires that the terms and conditions of bills of lading and contracts of affreightment be framed under glass and posted in a conspicuous place on board each vessel where they may be seen at all times. This requirement is in addition to the statutory requirement that the terms and conditions of bills of lading and contracts of affreightment be filed with the Federal Maritime Commission and kept open to public inspection where freight is received as a condition of being able to incorporate by reference into short forms of such documents the terms and conditions set forth on the long forms of such documents. The vessel posting requirement is meaningless, therefore, since it does not, in fact, result in giving any notice to the public which is not already available.

Modern freight vessels are in port for relatively short periods of time to load and discharge cargo. For safety reasons, shippers and consignees are not permitted to cross through busy container yards and board vessels while cargo is being loaded and discharged. It is unsafe to permit shippers and consignees to board vessels for the purpose of inspecting such terms and conditions. Shippers and consignees have adequate opportunity to inspect the terms and conditions of bills of lading and contracts of affreightment in the carrier's offices where they may do so in safety. Continuance of the framing and posting requirement aboard vessels will result in unnecessary administrative costs for framing, posting, verifying to corporate headquarters that the framing and posting has been accomplished, and furnishing evidence in cargo loss and damage litigation that framing and posting was performed

as required by the statute. The requirement for framing under glass and posting aboard vessels the terms and conditions of bills of lading and contracts of affreightment should be eliminated from the Intercoastal Shipping Act, 1933 and the implementing regulations issued under such Act. The following suggested amendment to the Intercoastal Shipping Act is identical to Section 3 of H.R. 840, the FY 1990 Authorization bill as passed by the House of Representatives, and does not affect the Act's bill of lading posting requirements for passenger vessels:

The first paragraph of section 2 of the Intercoastal Shipping Act, 1933 (46 APP. U.S.C. 844) is amended--

(1) by inserting in the third sentence after "on board each vessel", the words "that carries passengers",

(2) by striking in the seventh sentence ", if filed as permitted by this section and framed under glass and posted in a conspicuous place on board each vessel where they may be seen by passengers and others at all times,"; and

(3) by striking in the seventh sentence "on board each vessel," the second time it appears.

Thank you for your consideration of the views of Matson Navigation Company, Inc..

STATEMENT OF JAMES F. RENDEIRO ON BEHALF OF THE NATIONAL CUSTOMS BROKERS AND
FORWARDERS ASSOCIATION OF AMERICA

Mr. Chairman: Thank you for affording us the opportunity to testify here today. My name is James F. Rendeiro of J. F. Moran Co., Inc. of Boston. I am here as a representative of the National Customs Brokers and Forwarders Association of America and serve as Chairman of the Freight Forwarding Committee. Our Association consists of 450 licensed ocean freight forwarders and customs brokers and has 30 local association affiliates. The combined membership processes the overwhelming majority of our exports and imports.

First, let me say what a pleasure it is for us to appear before your committee. While our interest in the Federal Maritime Commission is extensive, today we will narrow our comments to a specific matter of concern to the subcommittee -- The Automated Tariff Filing and Information (ATFI) System. Let us state from the outset that we support speedy automation of the tariff filing system. Former FMC Chairman Elaine L. Chao and Acting Chairman James Carey have done an outstanding job articulating the need and stressing the urgency for getting underway. After all, Mr. Chairman, this is 1989, a time of high technology, instant access to information and enhanced productivity. It is time for paper-intensive, time-consuming and laborious processes to yield to modernization.

One issue -- perhaps a central issue -- is whether the public should be afforded access to remote retrieval of raw data by direct interface with the FMC or whether they must go through an outside vendor. NCBFAA is firmly on record as supporting remote retrieval by the public for several reasons:

1) One of the most important services rendered by the forwarder is to ascertain the rates being charged by the carriers so that the export may be booked with the vessel operator having the best rate and service. The current procedure is to call the rate clerk at the line to obtain a current rate. If there is some question as to its accuracy or whether the rate is actually on file with the FMC, it is necessary to retain the services of a tariff service firm in Washington to physically search the records in the Federal Maritime Commission. This is time consuming and costly, but it is the only procedure available ever since ocean carriers were required to file and maintain tariffs with the FMC under the Shipping Act of 1916. Customs brokers likewise have need of a quick and accurate way to verify rates.

ATFI represents a significant leap forward for our shipping public by providing the computer communication the means of promptly obtaining from the FMC mainframe the latest tariff rate of a line on a specific commodity. While ATFI does not offer the more detailed and sophisticated information currently being provided by some computer tariff services, it does, nevertheless, make available at a reasonable cost an immediate double-check upon the information furnished by the line.

The FMC service of ATFI is particularly helpful to the small forwarder/broker. Many of them do not have the more sophisticated computer systems that their large competitors have, nor can they afford the more expensive and detailed commercial tariff service. ATFI would permit such forwarder/broker to

service exporters and importers much more efficiently and at a lower cost.

2) The information that we seek to obtain is simply the raw data that has been filed by the carriers. We see room in the processing of tariff information for enhancement. For many, that value-added service will be highly necessary and is data for which compensation is due. However, we believe that the raw data belongs in the public domain and must be made available to the public.

3) Our members -- ocean freight forwarders -- have a right to access their own tariffs. To force a Charleston or New Orleans forwarder to engage someone in Washington, D.C. to go to the FMC's on-site retrieval system, or to pay the costs of a private service for unprocessed, raw data is unreasonable. It is a cost that this small businessman can ill-afford -- and one that he should not be asked to pass on to the shipper.

These added costs put the small forwarder (who comprise 80% of the industry) at a decided competitive disadvantage to the large concerns that are far better able to absorb them.

4) Forwarders must be able to confirm that a particular rate has been filed with the FMC, often at the very last minute before cargo is shipped. Denying him this opportunity puts him in peril of additional charges, possible fines or lengthy law suits.

5) Automated services are rapidly becoming common to the transportation industry. They are widely used in accessing Customs, ports and terminals. To effectively exclude the

forwarding industry is highly prejudicial to our ability to compete.

* * * * *

Finally, we urge that Congress move ahead with ATFI this year. This is a program whose cost is small compared to comparable efforts elsewhere in the government and whose return is high, especially to the independent freight forwarder who must labor with an archaic, almost primitive system of paper and filings.

* * * * *

Mr. Chairman, this concludes my remarks. I will be pleased to respond to your questions.

Statement Of
John J. Stocker
President
Shipbuilders Council of America

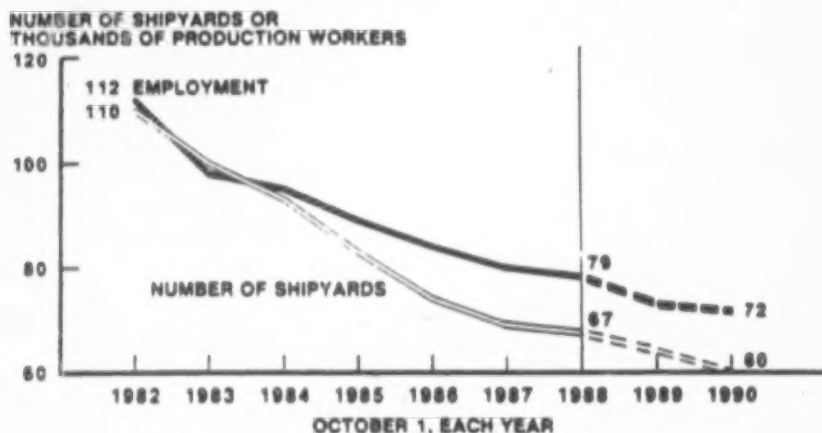
Mr. Chairman, members of the Subcommittee, I am John J. Stocker, President of the Shipbuilders Council of America. On behalf of the Council - the national trade association representing the principal domestic shipbuilders, ship repairers, and suppliers of marine equipment and services - I appreciate this opportunity to submit for the record our views on the FY'90 Authorization Bill for the Maritime Administration (H.R. 1486). The Council represents approximately 95 percent of the private work force engaged in shipbuilding and ship repair in the United States. A list of our membership is attached to this statement.

The U.S. private shipyard industrial base is in crisis. The nation today does not possess the capability to construct and repair the Navy and merchant marine fleets required for a prolonged conflict. This alarming fact was admitted by Secretary of the Navy William Ball, III, in a recent letter to the Chairmen of the House and Senate Appropriations Committees. In that communication, the Secretary stated that only 34 percent of our new ship construction requirements could be met in an extended conflict.

For several years, the Council has reported to Congress the decreasing ability of the shipbuilding and ship repair industry to respond to national emergency mobilization

requirements. One hundred ten private yards were identified in a joint Navy/Maritime Administration Shipyard Mobilization Base (SYMBA) study as constituting an adequate industrial base for the nation in time of mobilization. The following chart tracks the decline of mobilization shipyards from 1982 to the present:

PRIVATE U.S. SHIPYARD BASE

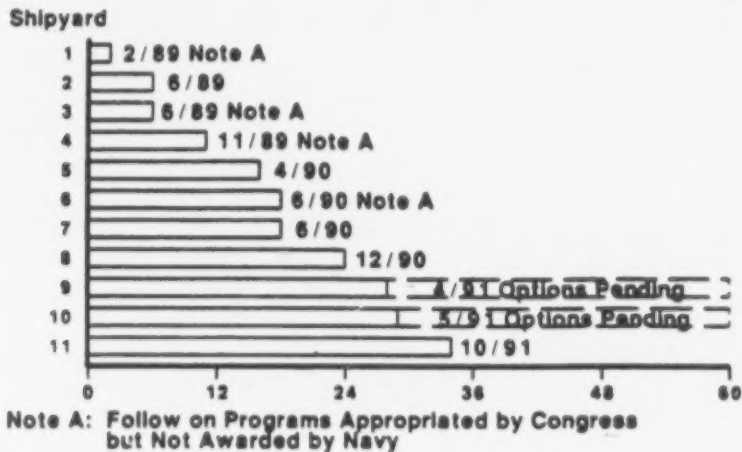


As shown, 43 of those 110 private yards have already closed - and 33 thousand production workers have left the industry. In the absence of a sharp turnaround, the Council projects that another seven of these yards may close within the next two years, and another seven thousand workers will be lost.

There are 17 shipyards currently holding new construction contracts with the U.S. Coast Guard and the Navy. But, because of the Navy's need for complex and sophisticated warships, ninety percent of all Navy new construction dollars are concentrated in just five of these shipyards. The

remaining dollars are supporting twelve of the 17 yards. Eleven shipyards hold only one contract and the chart below indicates the delivery schedule for those ships:

SHIPYARDS WITH SINGLE CONSTRUCTION PROGRAM DELIVERY OF LAST SHIP



As a result, it is clear that the U.S. Navy cannot maintain an adequate shipyard mobilization base by itself. If the United States is to have a viable shipbuilding industry capable of meeting national security requirements, U.S. shipyards must be competitive in building commercial vessels. To this end, the Council proposes a Shipyard Recovery Program. The objective of this program is to ensure by 1995 or 1997 that there will be modern, highly efficient, and competitive U.S. shipyards in place which can capture 2-3 percent of the world market share -- the share required to sustain the existing commercial shipbuilding base. The foundation of this proposal is a joint industry, labor, and government

cooperative effort to establish this industry as a competitive force in the world market.

This plan is not a subsidy. It calls for an active public-private partnership to achieve a healthy, fully capable shipbuilding industry, that will benefit the Nation's economy and - most importantly - will be ready to meet any national emergency. The Shipyard Recovery Program consists of three critical requirements:

- 1) Efforts on the part of the United States Trade Representative (USTR), the Department of State, and the Maritime Administration (MARAD) to negotiate an end to foreign shipyard subsidy practices;
- 2) Investment in research and development of advanced ship designs and shipyard productivity improvements; and
- 3) The creation and maintenance of an interim assured market to meet military sealift requirements. This market will provide the stimulus for investment, opportunities for applying improved productivity methodologies, and work force training and retraining. It will also sustain the U.S. shipbuilding industry during the period in which it is making the improvements necessary to become competitive in the world market.

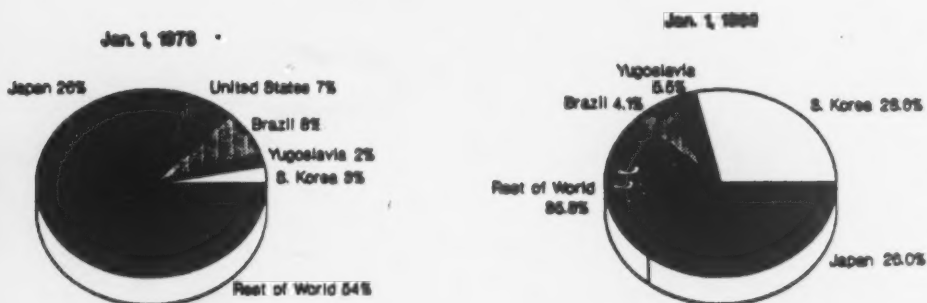
Before I address the specifics of the H.R. 1486 and its importance to restoring U.S. shipyard competitiveness, I want to expand on the first element of our recovery program-- foreign subsidies.

In 1981, the Reagan Administration decided not to fund the Construction-differential Subsidy program. Since that

time, this industry has had to compete against heavily subsidized foreign shipyards. Consequently, the U.S. market share for building commercial ships has dwindled to zero - and capital investments required to bring about productivity improvements in the commercial sector have not been made at a rate that can keep us competitive in the world market. The mistake made by our government in 1981 was to unilaterally disarm the private U.S. shipbuilding industry. The U.S. Government should have at that time insisted that the foreign shipyard subsidy practices of our trading partners be equally curtailed.

In 1978, the United States held 6.5 percent of the world commercial shipbuilding market. Today, the United States does not even appear on the pie chart. On the other hand, Japan has successfully maintained a relatively stable market share of 26 percent. South Korea, utilizing a variety of sophisticated schemes, has increased its market share from 2.8 percent in 1978 to 28 percent today.

World Percentage Comparisons of Commercial Vessel Tonnage on Order



In an effort to quantify the extent of foreign subsidies,

the Council undertook in 1988 an in-depth examination of the various assistance programs provided by governments to their shipbuilding industries. The conclusions of our findings were published in a special report titled SHIPBUILDING AID IN THE WORLD'S LEADING SHIP-PRODUCING NATIONS (Oct. 1988). This report, which is attached to this statement, describes the various components of foreign assistance in some detail. The package usually includes one or more of the following:

- o Long-term, low-interest loans to ship buyers;
- o Government guarantees for loans;
- o Construction subsidy grants to shipbuilders;
- o Government funds to finance scrapping of commercially obsolete ships and/or to reduce the overcapacity in shipbuilding facilities;
- o Favorable tax and/or vessel and facility depreciation benefit schemes;
- o Customs duty exemptions or rebates for imported materials used in ship construction; and
- o Research and development funding to advance ship technology.

In an effort to attempt to roll-back or curtail these practices, the Council opened a dialogue with the Department of State. The department has been receptive to our overtures. At the Council's urging, the department sent a Washington-based delegation to a meeting of Working Party 6 of the Organization of Economic Cooperation and Development (OECD) held last year in Tokyo. This was the first time in the history of this international group - the only such group that

reviews government shipbuilding practices - that such a U.S. delegation has made its presence known. The USG status is currently that of an observer, but an upgrade to full membership is being sought. The Council will continue to interface with the department in the OECD Working Party 6 forum. The members of this working group include the industrialized nations of Western Europe and Japan, as well as, an informal relationship with South Korea.

In addition, the Council is in the process of reviewing its options under section 301 of the Trade Act of 1974. If a petition is filed, the Council will recommend that the USTR take all appropriate and feasible action to eliminate the direct and indirect subsidies currently being provided to the shipbuilding and ship repair industries of the Federal Republic of Germany, Japan, and the Republic of Korea. We will argue that the subsidy practices provided by the governments of those three countries to their shipbuilding industries are unjustifiable, unreasonable, and burden and restrict United States commerce.

As you can see, Mr. Chairman, the Council has been active in the area of foreign subsidy practices. Indeed, we are committed to press on to fight these practices which are distorting the international commercial shipbuilding market. We need your help, however, in this effort. If the USTR and MARAD are to pursue these unfair trade practices, they must hear from the Congress on this issue. Your assistance in encouraging the USG to get tough on foreign subsidies is essential if progress is to be made.

No matter how efficient or competitive our industry is-- it cannot compete against foreign governments.

The bill before us today, the Maritime Administration Authorization Bill for FY'90 (H.R. 1486), includes a very essential element in our drive to recovery. I refer to the \$2,250,000 authorized for ship research and design and shipyard studies.

Funds must be authorized and appropriated for new advanced ship designs. If an American shipbuilding industry is to exist and thrive, research must be conducted in shipyard productivity improvements, and in identifying an international market niche for high technology commercial ships. Specifically, we recommend that the \$2,250,000 be allocated accordingly:

- 1) \$750,000 to survey selected shipyards located in the United States to determine the facilities, equipment and processes required to increase productivity, reduce ship construction costs, and shorten delivery schedules in those shipyards;
- 2) \$500,000 to identify the appropriate market for ships constructed in U.S. shipyards;
- 3) \$500,000 to develop preliminary designs for the types of ships to meet the market demand identified in paragraph (2); and
- (4) \$500,000 to support the efforts of the National Shipbuilding Research Program.

Our competitors have been spending millions on research and development while MARAD has been dismantling its research

and development activities. Today, there is essentially no money being invested by MARAD to promote shipyard productivity or to pursue ship research and design. The MARAD Office of Technology Assessment was formed in 1987 after the Offices of Advanced Ship Development, Advanced Ship Operations, and Maritime Technology were closed. The current functions of the Office of Technology Assessment heavily emphasize ship operations and cargo handling -- not ship construction.

The National Shipbuilding Research Program (NSRP) from FY'71 to FY'82 was jointly funded by MARAD and industry. In FY'82 the Navy joined the program. Since MARAD's withdrawal from the NSRP in FY'86, it has been totally funded by the Navy and industry. The Navy's FY'89 contribution was only \$500,000. This accounts for all federal investment in commercial ship research and design.

Conversely, our competitors are investing heavily in high technology ship designs and advanced production processes. The exact amount of government-financed ship research and development in Japan, for example, is difficult to quantify. One reason for this is that government involvement can come through a myriad of organizations attached to the Ministry of Transport - such as the Council for Transport Technology and the Ship Research Institute. We do know that \$24.4 million and \$21.9 million were funded by the Ship Research Institute in fiscal years 1987 and 1988, respectively.

R&D in Japan prior to 1974 emphasized building bigger and faster ships. After 1974, the emphasis was placed on lowering production and operational costs. Then in 1986, the

government's focus turned toward high value-added ships, artificial intelligence, and computer-integrated production techniques. Longer-term research is currently being conducted on ship applications of superconducting machinery.

This month, the Japanese Transport Ministry requested \$4.3 million for FY'89 - which begins on April 1, 1989 - for the development of a fast cargo ship capable of 50-knot speeds. This program is anticipated to take five years and cost \$77.7 million. The plan calls for development of the prototype by two competing groups: Mitsubishi, Mitsui, and Kawasaki; and NKK and IHI.

The Japan Foundation for Shipbuilding Advancement has developed a propeller-less ship design with government research funding. Government funding for this program in FY'88 was \$1.4 million. Prior year R&D funding is not known. A three-meter propeller-less prototype will begin to sail this spring, and by the mid 1990s a 150-ton, 22-foot version will be constructed.

The U.S. shipbuilding industry once led the world in ship technology breakthroughs. We still maintain that position in the production of sophisticated state-of-the-art naval combatants and nuclear submarines. We can - once again - lead the world in commercial ship technology. But, this cannot be accomplished without a long-term commitment to R&D or without a cooperative government/industry effort to that goal.

Thus, we wholeheartedly support your initiative in this bill and encourage you to work closely with the Appropriations Committee to ensure that the R&D authorization is fully

funded. Without government investment, this industry will never be able to compete in the international market. Because of the fragile financial condition of most private shipyards, government investment in R&D is crucial. Without government support, commercial shipbuilding in this country will disappear and the nation will lose a needed national asset.

Finally, I want to raise two issues of concern to those Council members engaged in Maritime Administration-sponsored ship repair and conversion projects. The first issue is the MARAD practice of requiring a private firm to post a bond as a condition precedent to obtaining work. We believe that the practice adds nothing to the completed project except higher costs, and merely limits competition because many contractors are unable to obtain bonds due to the smallness of the market. Moreover, we note that the Navy in the administration of its multi-million dollar vessel construction and repair programs does not mandate bonds. Instead, the service generally uses the pre-award survey process to check out the capabilities of the bidders on a particular project. Accordingly, the Council would be supportive of an amendment to H.R. 1486 which would preclude MARAD from continuing its bonding practice.

The second issue is the solicitation practice known as "split bidding" for ship repair contracts. Under this practice, MARAD divides the solicitation into two parts: one pertains to the drydocking of the vessel; and the other deals with topside work on the same vessel. This practice favors smaller, low or no investment companies over larger shipyards that have made the necessary investment to be full service facilities. Split bidding results in the same work taking longer to perform and penalize the full service shipyard. The Council strongly believes that the practice should be stopped.

STATEMENT FOR THE RECORD
VICE ADMIRAL PAUL D. BUTCHER, USN

COMMANDER

MILITARY SEALIFT COMMAND

Mr. Chairman, members of the Subcommittee on Merchant Marine of the Senate Committee on Commerce, Science and Transportation. Although you did not request my presence at the hearing, I am pleased to have the opportunity to present my views on the Maritime Administration's (MARAD) Authorization Request for Fiscal Year 1990.

Since assuming command of the Military Sealift Command on December 19, 1988, I am more aware than ever of the importance of the maritime industry to the defense capability of our nation. There is nothing new in this relationship between U.S. Navy and U.S. Maritime. It has been true since Colonial days and true of every seagoing nation in history. A healthy, responsive maritime industry is essential to the nation's defense capability.

The key to defense capability is readiness. . . the readiness to cope with a contingency or fight a war we hope will never materialize.

U.S. National strategy is to deter aggression and prevent war through a strong military presence. Our maritime strategy, which logically follows the national strategy, is to provide strong military presence with forward deployed forces. The primary mission of the Military Sealift Command is to provide the sealift necessary to deploy and sustain these military forces worldwide in both peace and war.

Let me briefly review for you the missions of the Military Sealift Command.

In World War II, the transportation of military cargo across the oceans was conducted by four separate government agencies. That was changed in 1949 when that vital mission was placed under a single agency--the Military Sea Transportation Service. Its name was changed in 1970 to the Military Sealift Command. The importance of strategic sealift was given special recognition in 1984, when it was named as an official function of the Navy. It is one of four functions, along with sea control, power projection and strategic deterrence.

In 1987, the U.S. Transportation Command (USTRANSCOM) was established to provide common-user air, land and sea transportation and terminal services to deploy and support U.S. forces worldwide. USTRANSCOM has three component commands--the Military Sealift Command, the U.S. Army's Military Traffic Management Command, and the U.S. Air Force's Military Airlift Command. One year after its establishment, on October 1, 1988, USTRANSCOM assumed operational command of the common user assets of the three component commanders. However, each component commander exercises daily operational control of assigned forces.

The scope of operations at MSC is best understood by a familiarity with the three-fold mission of the command and the

forces that carry out those missions. They are the Direct Fleet Support Force, Special Mission Support Force and Strategic Sealift Force. In total, these forces are made up of 135 privately-owned and government-owned ships, crewed by 4,000 civil services mariners and 2,000 merchant mariners under contract.

MSC is a rather unique Navy command in that uniformed U.S. Navy people do not operate its ships, though uniformed detachments serve aboard Naval Fleet Auxiliary and Special Mission ships to handle communications, coordinate supply operations, conduct helicopter operations and perform other duties in support of the mission but not directly related to operating the ship.

The Naval Fleet Auxiliary Force of 43 ships supports combat ships at sea, providing fuel, ammunition, supplies, spare parts, towing service and ocean surveillance.

The Special Mission Support Force of 23 ships carries out a variety of special missions, such as cable laying and repair, tracking of missiles and ocean survey and research.

MSC's Strategic Sealift Force --the chief concern in this deliberation because of its heavy dependence on a viable U.S. merchant marine--provides the assets to transport equipment and supplies across the oceans for use by our armed forces wherever deployed.

For its strategic sealift mission, MSC has 57 privately owned cargo ships and tankers under long-term charter. Included

are 25 ships of the Afloat Prepositioning Force. These ships are loaded with military unit equipment and supplies and are strategically located around the world for contingency purposes. Thirteen of the 25 ships are Maritime Prepositioning ships, which were specially designed to transport combat equipment and 30 days of essential supplies and ammunition for three Marine Expeditionary Brigades. I will discuss this force in greater detail later.

During peacetime, MSC transports 10 million tons of dry cargo annually. Six million tons of this total are booked on regularly scheduled liner ships. We also ship almost 14 million long tons of petroleum annually. All of this cargo is moved in privately owned U.S. flag ships.

Sealift assets in peacetime are readily available. Currently, there is a worldwide excess of tonnage capacity. Our main concern, from a military point of view, is the availability of sealift capacity in a war or contingency. There will be no catch-up period following the break-out of future hostilities such as there was after the attack on Pearl Harbor. It will be a come-as-you-are event, with only those forces available that are available at the moment of attack. Consequently, the peacetime merchant marine, augmented by what I call our transition force (Fast Sealift Ships, Ready Reserve Force, etc.) will constitute our unilateral capability to deploy and sustain our combatant forces.

Keep in mind, too, that the longer the contingency, the greater our dependence on available merchant shipping. More than 95 percent of cargo and petroleum products required to support our military forces overseas must be transported by strategic sealift. There is simply no other practical method to carry the vast quantities of supplies and equipment needed.

It is important to examine the state of the U.S. merchant marine. First, the numbers of ships have decreased drastically, from 893 ships in 1970 to 424 ships today. However, carrying capacity has increased. Due to the larger, faster ships with improved cargo handling capability, the carrying capacity of the U.S. merchant fleet has increased since 1970 from 15.8 million DWTs to 21.2 million DWTs, a 23 percent increase. Much of the increase is due to the advent of the large crude oil carriers in the tanker fleet. But even the U.S. flag dry cargo fleet carried 16 percent more cargo in 1988 than in 1970. This is disconcerting from a military point of view because the loss of one ship today represents eight ships used in 1970.

The U.S. flag share of the 1987 U.S.-foreign dry cargo market stands at 4.3 percent for outbound or export goods and 3.8 percent for inbound, for a combined total of 4.0 percent. Preliminary figures for 1988 indicate a further decline to a 3.9 percent share of the total market. The U.S. flag share of petroleum, which is all inbound, stands at 3.3 percent. In 1950, the U.S. share of this market was 42.3 percent. One solution

might be to make the merchant marine more competitive. This would generate a need for additional ships in the merchant marine which would give us additional strategic sealift during a contingency or war. Expansion of the fleet, however, would not necessarily increase the number of militarily-useful ships.

More directly impacting the military situation has been a change in the type of ship being used in commercial transportation. Container ships, while productive and profitable in commercial shipping, are not as useful militarily. For a war or contingency, we need ships able to transport large, bulky military unit equipment, such as tanks, trucks and helicopters.

To offset the decline in availability of militarily useful ships, the U.S. Navy has funded a sealift program that has cost \$7 billion during Fiscal Years 1982 through 1989. The program included prepositioning of equipment and ships, expansion of a Ready Reserve Force, and acquisition of eight Fast Sealift Ships. The Navy has also developed and procured sealift enhancement features, including flatracks and seasheds--large, box-like structures that can be inserted into the holds of regular container ships enabling them to carry unit equipment.

As I mentioned earlier, MSC's Afloat Prepositioning Force is loaded primarily with U.S. Army, Marine and Air Force equipment and supplies and is strategically located worldwide for contingency purposes.

The Ready Reserve Force, comprised chiefly of cargo ships purchased from the U.S., now numbers 93 ships. These ships, which are deemed no longer commercially profitable, are needed for national defense to counter the decline in militarily useful ships in the U.S. merchant marine.

The RRF, if funded, will increase to 142 ships by 1994, and provides a significant portion of the unit equipment surge shipping capability that would be required on short notice to support rapid deployment of U.S. forces. RRF ships are maintained in a 5, 10, or 20 day readiness state, which allows us to activate the ships on a programmed schedule. The Maritime Administration has budgeting and administrative responsibility for these ships. In its FY 90 budget, MARAD has identified increased RRF funding for spares, no-notice activation, and ship acquisitions and refurbishments. This request follows on extensive strategic sealift and readiness planning by DOD. At the present time, we have the capability to move approximately 80 percent of unit equipment surge requirements. This funding of the RRF is extremely important to the wartime surge and resupply equations of our war plans. From a sustainability viewpoint, we need both a capable Ready Reserve Force and a strong, active merchant marine; the former to provide the surge movement of equipment and the latter to move the follow-on sustaining cargo and supplies. Exacerbating this problem is the conclusion of the Commission on Merchant Marine and Defense, which states that if

plans, policies and legislation remain unchanged, then the merchant marine will decline to about 200 ships by 2000.

The RRF also includes eight crane ships, which have been converted to offload cargo in ports lacking in offloading facilities. Four more such ships are planned. Contracts for the conversion of ships #9 and #10 were awarded in January 1989. MARAD's FY90 budget contains funding for ship #11.

Let me sum up the Department of Defense position by making three points:

1. MSC's first obligation in expending funds is to make sure the taxpayer's long-term interests are maintained.
2. Like any other government agency, we at MSC are required to follow certain procedures in the procurement of products and services. The competitive bidding practice for securing services from the maritime industry follows those procedures.
3. MSC is an ocean shipper and is affected by the same market forces as other ocean shippers.

Let me emphasize that I recognize, and the Department of Defense recognizes, the importance of a strong maritime industry to the nation's defense. The final solution to the maritime industry problems can be resolved, in my opinion, only through a national approach, with government, maritime management, and labor unions all working together. We should:

1. Execute a National Sealift Policy, approved by the President, which would stimulate the appropriate programmatic and

legislative actions. Appropriate agencies of the Executive Branch are currently staffing this issue.

2. Work with the maritime industry to maintain its viability, as the best interests of the U.S. merchant marine and the Military Sealift Command are inseparable. I am especially sensitive to the manpower recruiting and training required.

3. Work with the Department of Transportation to review each policy currently in effect to make sure we are making the right decisions from a cost effectiveness view and to assist in sustaining the maritime industry over the long term.

In summary, the U.S. merchant marine industry must increase its competitiveness in the world trade market. Its strength directly affects MSC's ability to accomplish its peacetime and wartime mission. We have too many ships and too little cargo in peacetime and too much cargo and too few ships in wartime. It would, therefore, be desirable for the U.S. merchant marine to increase its current 4 percent share of the U.S. foreign waterborne trade. A significant increase in trade would require more ships in peacetime which could give us a larger nucleus fleet with which to make the transition to war.

We believe these initiatives would enable the U.S. flag maritime industry to become more competitive and to reverse the decline in its market share of oceanborne U.S.-foreign cargo. Bringing this about should be a top national priority. The strength of our maritime industry directly affects the U.S.

Navy's sealift mission in peace and in war. We need both a strong U.S. Navy and a strong maritime industry, including ships, crews, and shipbuilding and repair facilities. The MARAD budget recognizes this need and supports it.

Consequently, I recommend approval of the MARAD budget.

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DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON, DC 20390-2000

IN REPLY REFER TO
4000
Ser 04M/9U583757
10 Mar 1989

Mr. William A. Creelman
Deputy Maritime Administrator
Maritime Administration
U.S. Department of Transportation
400 7th Street, SW
Washington, DC 20390

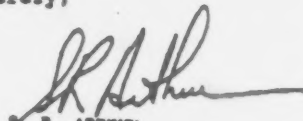
Dear Mr. Creelman:

This is in response to your letter of 24 February which requests guidance on the Navy's plans for the use of state maritime academies' school ships relative to the proposed ship-sharing plan.

The Navy has a requirement to provide sufficient troop and passenger ship capacity for the movement of approximately 26,000 Marine Corps troops in support of the assault follow-on echelon, in circumstances where troop airlift is not feasible. Consequently, we have planned to use these school ships as readily available U.S.-flag, U.S. citizen-manned trooplift.

For these reasons, we would like the Maritime Administration to place at least the same trooplift capability in Reserve Fleet status. This will ensure we do not lose existing trooplift capacity although recognizing we have lost some flexibility.

Sincerely,


S. R. ARTSON
Vice Admiral, U. S. Navy
Deputy Chief of Naval
Operations (Logistics)

16721

MAY 02 1989

Mr. William Creelman
 Deputy Administrator
 Maritime Administration
 Department of Transportation
 Washington, DC 20590

Dear Mr. Creelman:

This is in answer to your letter of February 17, 1989 in which you presented several specific questions regarding MARAD's proposed ship-sharing implementation plan.

The first concerns 46 CFR 166. This section describes in general terms the training conducted at the enumerated schools (school ships) and states that as the training, as described, meets the requirements for the rating of "able seaman," "qualified member of the engine department" or lifeboatman as appropriate. No change to this section is necessary; however, should the ship-sharing plan be implemented, the five programs affected would have to be reevaluated.

The proposed guidelines we received from MARAD for sea time equivalency, were apparently those contained in the ship sharing implementation plan. An analysis follows:

1. BACKGROUND: There are five state maritime academies and colleges which prepare students for ocean licenses, and are, therefore, affected by the International Maritime Organization (IMO) Standards of Training, Certification and Watchkeeping (STCW) Convention. It has been our position that the license programs are affected by STCW regardless of whether the convention is adopted by the U.S. because of the international nature of ocean licenses and the necessity of having our merchant marine credentials accepted by signatory countries. These colleges and academies have been in existence for a long time, up to one hundred and fifteen years, have served our nation well and are the backbone of this country's system of maritime education. Each of these schools has its own training ship which is used as a training aid while the students are ashore during the academic year in addition to being the platform on which the students get the majority of their sea time.

2. STCW Requirements: The requirements for an unlimited deck officer's license are more stringent than those required for an Engineer's License and are therefore the controlling factor. Three years of sea service is required. Two of the three years can be substituted with a program of "special training." The remaining year must be sea time with at least six months of bridge watchstanding. Each country has the right to retain or adopt other educational and training arrangements that are equivalent to the convention.

3. Current Status: Federal regulations (46 CFR 166 & 10) state that the training programs at the schools were found to be acceptable. MARAD has maintained more detailed oversight over the schools curriculum including regulations delineating the minimum number of required sea days. Each state school was asked to develop an equivalency package based on their training program for joint Coast Guard, MARAD review. During 1982 the California, Maine, New York and Texas programs were reviewed and found acceptable. The letters to the schools merely stated that their programs were found to be acceptable equivalents as a whole without detailed comment on equivalent sea time. In view of the hundreds of years of aggregate experience in successfully training merchant marine officers, there is justification in accepting the whole program as existing equivalent training.

Article IX of STCW deals with "Equivalents" and allows each nation broad latitude to retain or adopt substitute training as long as the degree of safety and pollution protection is equivalent to the requirements of STCW. Based on their proven performance in turning out qualified merchant marine officers, the schools can be judged as meeting the STCW requirements even if there are some technical shortfalls. Any major change to the program would preclude reliance on this known factor, i.e., the history of producing qualified merchant marine officers. Removing the individual Training Ships from the school ship would constitute such a major change.

4. Ship Sharing: MARAD has developed a plan where the five state schools would share two training ships. This is a major change in the program and calls for a "zero based" analysis of STCW equivalency. We have had several meetings with MARAD and identified questions that must be addressed prior to the process of counting "sea-days" or their equivalent. The first is the Coast Guard role in the approval process. While detailed oversight of the academies is a MARAD function, the Coast Guard has responsibility to insure that the programs meet the national licensing requirements, and the international STCW requirements.

a. There are two distinct requirements expressed in STCW, one is the program of "special training" as a substitute for two years of sea time. The academies academic programs have been accepted for this purpose. This is that part of the program carried out during the normal academic year. Up to now each school has used the training ships (while moored) as an essential training aid during this part of the program. Ship-sharing will have an impact on this "special training". The amount of time the ships are used for training while moored at the academies is as follows:

(1) California Maritime Academy

D-115 Seamanship Lab	90 hours	Training Ships
D-116 Seamanship Lab	45 hrs(90 hrs)*	Training Ship/Motor Launch
D-215 Seamanship Lab	45 hrs.	Training Ship
D-226 Advanced Seamanship	45 hrs.	Training Ship

D-211 Electronics Equipment Operator	45 hours	Training Ship
D-325&326 Shipboard Management Lab.	90 hours	Training Ship
	<u>360 Hours</u>	

*Assuming 1/2 of D-116 is given in motor launches

(2) Maine Maritime Academy

NS-110 Ship's Seamanship Lab and Maintenance I	96 hrs.	Training Ship
NS-310 Ship's Seamanship Lab and Maintenance I	96 hrs. <u>192 hrs.</u>	Training Ship

(3) State University of New York, Maritime College

NS-101 Operations I	60 hrs.	Training Ship
NS-205 Terrestrial Navigation	60 hrs.	Training Ship
NS-206 Operations II	60 hrs.	Training Ship
M-311 Meteorology for Mariners	75 hrs.	Training Ship
N-301 Celestial Navigation	60 hrs.	Training Ship
NS-306 Operations III	60 hrs.	Training Ship
NS-312 Advanced Marine Navigation	45 hrs.	Training Ship
N-402 Advanced Marine Navigation	45 hrs.	Training Ship
NS-408 License Seminar	60 hrs <u>525 Hrs.</u>	Training Ship

(4) Texas Maritime College

Navt-103 Maritime Orientation and Lifesaving	48 hrs.	Training Ships*
Navt-203 Seamanship I	48 hrs.	Training Ships*
Navt-301 Seamanship II	48 hrs.	Training Ships*
Navt-302 Seamanship III	48 hrs.	Training Ships*
Navt-404 Advanced Navigation Lab.	48 hrs.	Training Ships*
Mart-302 Marine Cargo Operations I	48 hrs.	Training Ships*

Mart-406 Marine Cargo
Operations II

46 hrs.
336 hrs.

Training Ships*

*These labs are held on the Training Ship or when available commercial vessels in the local area. Massachusetts Maritime Academy - the program was not submitted for evaluation.

(5) Ship-sharing will constitute a major modification to the currently approved programs. To maintain an acceptable level of training and continue to have the academic programs credited for two years of sea time, these programs will have to be reevaluated. The schools are presently using their training ships from 192 hours to 520 hours in their academic programs. If the ships are no longer available or acceptable substitute will have to be found. STCW requires that the period of "special training" be equivalent in value to the two year sea-going service it replaces. It appears that each of the four schools reviewed will require adjustments to their academic program (the two year equivalent) to fill the void caused by not having the training ships alongside to use as a laboratory. Suitable alternative training aids will have to be found for use during periods that range from 192 to 520 hours.

b. The second requirement of STCW refers to the remaining one year of approved sea-going service. At least six months of the total has to be bridge watchkeeping duties under the supervisor of a qualified officer. With ship sharing proposed, the schools will obtain the following sea time.

- (1) California Maritime Academy
Training Ship Cruises
Underway days
3 cruises X 50 days X 1.5 Training factor = 225
- Import days
3 cruises X 13 days = 39
- Pre-cruise
3 cruises X 4 weeks X 5 days per week = 60
324 days
- 36 days in addition to the academic program are needed.
- (2) Maine Maritime Academy
Training Ship Cruises
Underway days
2 cruises X 50 days X 1.5 training factor = 150
- Import days
2 cruises X 13 days = 26
- Pre-cruise
2 cruises X 4 weeks X 5 days per week = 40
- Commercial Shipping 50 days = 60
276
- 34 days in addition to the academic program are needed.

(3) State University of New York Maritime College	
Training Ship Cruise	
Underway days	
3 cruises X 50 days X 1.5 training factor =	225
Import days	
3 cruises X 13 days =	39
Pre cruise	
3 cruises X 4 weeks X 5 days per week	60
Fourth Class Indoctrination	
Pulling Boat and Sailing =	1
Yard Craft Training Tug Experience	
Fourth Class indoctrination Voyage =	1
Third Class Navigation Voyage =	1
Second Class Rules of the Road Voyage	1
First Class Watchstanding and Shiphandling Voyage	2
	<u>330</u>

Without the use of the Training Ship the following programs outside of the academic program could not be accomplished;

Fourth Class Indoctrination	
Shipboard Orientation =	1
Ship Maintenance Saturday	
2 days X 3 years =	3
Import watchkeeping aboard	
Fourth Class year =	4
Second Class year =	19
	<u>30</u>

29 days in addition to the academic program are needed.

(4) Texas Maritime College	
Training Ship Course	
Underway day	
3 cruises X 50 days X 1.5 training factor	225
Import days	
3 cruises X 13 days	39
Pre-cruise	
3 cruises X 4 weeks X 5 days per week	60
	<u>324</u>

36 days in addition to the academic program are needed.

Each of the schools will require additional sea time as indicated to meet the requirements of the Convention. In short, under the proposed plan the schools would no longer meet the STCW requirements for licenses.

5. Safety: A real area of concern is safety. Cadets are required to perform the duties of the ship's crew during the training cruise. The present situation allows the cadets to become familiar with all aspects of the training ship during the

academic year. This is especially important to the fourth class cadets since they have not been to sea before. Safety of the personnel aboard the training ship is a primary concern of the Coast Guard.

It will be difficult to achieve the same level and depth of familiarization in a few weeks as that which is obtained during the academic year. One alternative for this training is to structure a familiarization and indoctrination course over a two to three week period. Typical pre-cruise preparation is heavily compressed and includes maintenance, loading stores and supplies, cadets moving on board and similar activities which limit valuable training time. The training ship must be available for this course. Suggested topics for such a familiarization and indoctrination course are:

Deck and Engine

- Participate in fire and boat drills; lower and recover lifeboats
- Operation of fixed fire fighting systems
- Participate in damage control exercises
- Vessel familiarization
- Operation of fire detection system
- Operation of steering systems
- Operation of VT + PS doors
- Watchstanding
- Walk through all spaces
- Locate and operate emergency escape latches/doors
- Assignment to Watch, Quarter and Station Bill positions

Engine

- Operation of fire pumps
- Operation of generator (including emergency generator)
- Tracing piping systems
- Inspection of engineering safety equipment
- Practicing casualty control procedures
- Operation of lifeboat motors

Deck

- Use of deck machinery and cargo gear
- Use of installed navigational equipment
- Inspection of boats and topside safety equipment
- Familiarization with ships documents
- Use of lifeboat handling gear

In summary, it is our position that the training currently provided students attending the coastal ships is a reasonable "equivalent" and satisfies the requirements of the Act. Should the ship-sharing plan be implemented, however, major changes will have to be made to the curriculum and facilities for the schools to continue to meet training requirements.

Sincerely,

J. D. SIKES
 Rear Admiral U.S. Coast Guard
 Chief, Office of Marine Safety,
 Security and Environmental Protection